

## LEGISLATIVE MINUTES

### MARLBORO TOWNSHIP COUNCIL MEETING

July 13, 2006

The Marlboro Township Council held its regularly scheduled meeting on July 13, 2006 at 8:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Morelli opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of the regularly scheduled meeting of the Township Council of the Township of Marlboro was faxed to the Asbury Park Press, the Star Ledger and News Transcript on January 3, 2006; faxed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building and filed in the office of the Municipal Clerk.

The Clerk called the Roll.

PRESENT: Council Vice President Cantor (9:15pm), Councilman Pernice, Councilman Rosenthal, Councilwoman Tragni and Council President Morelli.

Also present were: Mayor Robert Kleinberg, Andrew Bayer, Esq., Business Administrator Judith Tiernan, Municipal Clerk Alida DeGaeta, and Deputy Clerk Deborah Usalowicz.

Councilman Pernice moved that the minutes of June 1 and June 15, 2006 be approved. This motion was seconded by Councilwoman Tragni and the minutes were passed on a roll call vote of 4 - 0 in favor. (Absent: Cantor).

Council President Morelli opened the Public Hearing on Ordinance # 2006-18 (Amend Chapter 4 - Table of Organization Police Dept.). As there was no one who wished to speak, the Public Hearing was closed. There was a question and answer session between Mayor, Council, Parthenopy Bardis, Esq. from

Scarinci & Hollenbeck, Andrew Bayer, Esq. and Chief Robert Holmes. The following Res. #2006-255/Ord. #2006-18 (Amend Chapter 4 - Table of Organization Police Dept.) was introduced by reference, offered by Councilman Rosenthal, seconded by Councilwoman Tragni and passed on a roll call vote of 4 - 1 in favor, with Council President Morelli voting no.

RESOLUTION # 2006-255

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2006-18

ORDINANCE AMENDING CHAPTER 4, ARTICLE XIV, § 4-98, OF THE TOWNSHIP OF MARLBORO CODE ENTITLED "DIVISION OF POLICE" TO ESTABLISH THE POSITION OF DEPUTY POLICE CHIEF AND TO UPDATE THE TABLE OF ORGANIZATION

which was introduced on June 15, 2006, public hearing held July 13<sup>th</sup> be adopted on second and final reading this 13th day of July, 2006.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

Councilman Pernice was absent from the room. Council President Morelli motioned to table Res. #2006-192/Ord. #2006-15 (Amending Chapter 84 - Rezoning Certain Lots to LC Land Conservation District). This was seconded by Councilwoman Tragni and passed on a roll call vote of 4 - 0 in favor. (Absent: Pernice).

The following Res. #2006-288 (Special Meeting - July 25, 2006 at 7:30pm) was introduced by reference, offered by Council Vice President Cantor, seconded by Council President Morelli and passed on a roll call vote of 4 - 0 in favor (Absent: Pernice).

RESOLUTION # 2006-288

BE IT RESOLVED by the Marlboro Township Council that a "Special" Council Meeting will be held on July 25, 2006 at

7:30 PM at the Marlboro Municipal Complex (New Caucus Room), 1979 Township Drive, Marlboro, N. J. 07746. The purpose of this special meeting is to take action on Res. #2006-192/Ord. #2006-15 (Amending Chapter 84 - Rezoning Certain Lots to LC Land Conservation District) and any additional matters as may become necessary. Citizen's Voice will be limited to 15 minutes.

The following Res. #2006-256/Ord. #2006-19 (Bond Ordinance - 2006 Capital Budget) was introduced by reference, offered by Councilman Pernice, seconded by Councilwoman Tragni and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION #2006-256

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2006-19

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY, PROVIDING FOR VARIOUS GENERAL IMPROVEMENTS AND OTHER RELATED EXPENSES IN AND FOR THE TOWNSHIP OF MARLBORO AND APPROPRIATING \$3,686,000 THEREFOR, AND PROVIDING FOR THE ISSUANCE OF \$3,501,700 IN BONDS OR NOTES OF THE TOWNSHIP OF MARLBORO TO FINANCE THE SAME

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on August 10, 2006 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2006-19

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY, PROVIDING FOR VARIOUS GENERAL IMPROVEMENTS AND OTHER RELATED EXPENSES IN AND FOR THE TOWNSHIP OF MARLBORO AND APPROPRIATING \$3,686,000 THEREFOR, AND PROVIDING FOR THE ISSUANCE OF \$3,501,700 IN BONDS OR NOTES OF THE TOWNSHIP OF MARLBORO TO FINANCE THE SAME

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring), AS FOLLOWS:

Section 1. The several improvements or purposes described in Section 3 of this bond ordinance are hereby authorized to be undertaken by the Township of Marlboro, in the County of Monmouth, New Jersey (the "Township") as general improvements. For the several improvements or purposes described in Section 3 hereof, there are hereby appropriated the respective sums of money therein stated as the appropriations made for each improvement or purpose, such sums amounting in the aggregate to \$3,686,000, including the sum of \$184,300 as the several down payments required by the Local Bond Law. The down payments have been made available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets.

Section 2. In order to finance the cost of the several improvements or purposes not covered by application of the down payment or otherwise provided for hereunder, negotiable bonds or notes are hereby authorized to be issued in the principal amount of \$3,501,700 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds or notes, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The several improvements hereby authorized and the several purposes for which the bonds or notes are to be issued, the estimated cost of each improvement and the appropriation therefor, the estimated maximum amount of bonds or notes to be issued for each improvement and the period of usefulness of each improvement are as follows:

- (1) Purpose: Acquisition of cable studio equipment for the Administration Department, and including all else necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$26,251
<u>Maximum Amount of Bonds or Notes:</u>	\$24,938
<u>Period or Average Period of Usefulness:</u>	15 years
<u>Amount of Down Payment:</u>	\$ 1,313

- (2) Purpose: Acquisition of an ambulance for the Morganville First Aid Squad, and including all else necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$152,255
<u>Maximum Amount of Bonds or Notes:</u>	\$144,642
<u>Period or Average Period of Usefulness:</u>	5 years
<u>Amount of Down Payment:</u>	\$ 7,613

- (3) Purpose: Acquisition of document imaging equipment for the Township Clerk, and including all work and materials necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$26,251
<u>Maximum Amount of Bonds or Notes:</u>	\$24,938
<u>Period or Average Period of Usefulness:</u>	5 years
<u>Amount of Down Payment:</u>	\$ 1,313

- (4) Purpose: Acquisition of seven laptop computers for the Township Council, and including all work and materials necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$15,751
<u>Maximum Amount of Bonds or Notes:</u>	\$14,963
<u>Period or Average Period of Usefulness:</u>	5 years
<u>Amount of Down Payment:</u>	\$ 788

- (5) Purpose: Road improvements to and reconstruction of Route 520 from Route 9 to Old Bridge Border, located in the Township, as more fully described on a list on file with the Township Clerk, and including all else necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$21,001
<u>Maximum Amount of Bonds or Notes:</u>	\$19,951
<u>Period or Average Period of Usefulness:</u>	10 years
<u>Amount of Down Payment:</u>	\$ 1,050

- (6) Purpose: Road improvements to Robertsville Road and Gordons Corner Road intersection, located in the Township, as more fully described on a list on file with the Township Clerk and including all else necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$141,755
<u>Maximum Amount of Bonds or Notes:</u>	\$134,667

<u>Period or Average Period of Usefulness:</u>	10 years
<u>Amount of Down Payment:</u>	\$ 7,088

- (7) Purpose: Resurfacing of Conover Road located in the Township, as more fully described on a list on file with the Township Clerk and including all else necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$94,503
<u>Maximum Amount of Bonds or Notes:</u>	\$89,778
<u>Period or Average Period of Usefulness:</u>	10 years
<u>Amount of Down Payment:</u>	\$ 4,725

- (8) Purpose: Improvements to the Union Hill Commuter Lot, as more fully described on a list on file with the Township Clerk, and including all work and materials necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$577,521
<u>Maximum Amount of Bonds or Notes:</u>	\$548,645
<u>Period or Average Period of Usefulness:</u>	15 years
<u>Amount of Down Payment:</u>	\$ 28,876

- (9) Purpose: Drainage improvements to Station Road from Crine Road to Ardsley Place, located in the Township, as more fully described on a list on file with the Township Clerk, and including all else necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$346,512
<u>Maximum Amount of Bonds or Notes:</u>	\$329,186
<u>Period or Average Period of Usefulness:</u>	15 years
<u>Amount of Down Payment:</u>	\$ 17,326

- (10) Purpose: Township-wide Stream Cleaning Program, including, but not limited to, desilting of Greenbriar Pond, as more fully described on a list on file with the Township Clerk, and including all work and materials necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$31,501
<u>Maximum Amount of Bonds or Notes:</u>	\$29,926
<u>Period or Average Period of Usefulness:</u>	15 years
<u>Amount of Down Payment:</u>	\$ 1,575

(11) Purpose: Acquisition of generators with portable lights for the Township Office of Emergency Management, and including all work and materials necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$7,350
<u>Maximum Amount of Bonds or Notes:</u>	\$6,982
<u>Period or Average Period of Usefulness:</u>	15 years
<u>Amount of Down Payment:</u>	\$ 368

(12) Purpose: Acquisition of surface ice rescue kit for the Township Office of Emergency Management, and including all work and materials necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$4,515
<u>Maximum Amount of Bonds or Notes:</u>	\$4,289
<u>Period or Average Period of Usefulness:</u>	15 years
<u>Amount of Down Payment:</u>	\$ 226

(13) Purpose: Acquisition of Mobile Data Terminal for the Township Office of Emergency Management, and including all work and materials necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$6,825
<u>Maximum Amount of Bonds or Notes:</u>	\$6,484
<u>Period or Average Period of Usefulness:</u>	5 years
<u>Amount of Down Payment:</u>	\$ 341

(14) Purpose: Acquisition of Mobile Data Terminals for the Township Police Department patrol vehicles, and including all work and materials necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$14,999
<u>Maximum Amount of Bonds or Notes:</u>	\$14,249
<u>Period or Average Period of Usefulness:</u>	5 years
<u>Amount of Down Payment:</u>	\$ 750

(15) Purpose: Acquisition of communication equipment for UHF Frequency for the Township Police Department, and including all work and materials necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$31,501
<u>Maximum Amount of Bonds or Notes:</u>	\$29,926
<u>Period or Average Period of Usefulness:</u>	10 years
<u>Amount of Down Payment:</u>	\$ 1,575

(16) Purpose: Acquisition of containment refill oxygen tank for the Township Police Department, and including all work and materials necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$10,500
<u>Maximum Amount of Bonds or Notes:</u>	\$ 9,975
<u>Period or Average Period of Usefulness:</u>	15 years
<u>Amount of Down Payment:</u>	\$ 525

(17) Purpose: Acquisition of a weapon mounted lighting system for the Township Police Department, and including all work and materials necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$10,500
<u>Maximum Amount of Bonds or Notes:</u>	\$ 9,975
<u>Period or Average Period of Usefulness:</u>	15 years
<u>Amount of Down Payment:</u>	\$ 525

(18) Purpose: Acquisition of simmunition weapons and protective gear for the Township Police Department and including all work and materials necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$8,400
<u>Maximum Amount of Bonds or Notes:</u>	\$7,980
<u>Period or Average Period of Usefulness:</u>	15 years
<u>Amount of Down Payment:</u>	\$ 420

(19) Purpose: Acquisition of a parts washer for the Township Police Department, and including all work and materials necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$3,150
<u>Maximum Amount of Bonds or Notes:</u>	\$2,992
<u>Period or Average Period of Usefulness:</u>	15 years
<u>Amount of Down Payment:</u>	\$ 158

(20) Purpose: Acquisition of a replacement vehicle for the K-9 unit of the Township Police Department, and including all work and materials necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$36,452
<u>Maximum Amount of Bonds or Notes:</u>	\$34,630
<u>Period or Average Period of Usefulness:</u>	5 years
<u>Amount of Down Payment:</u>	\$ 1,823

(21) Purpose: Acquisition of two motorcycles for the Township Police Department, and including all work and materials necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$42,002
<u>Maximum Amount of Bonds or Notes:</u>	\$39,902
<u>Period or Average Period of Usefulness:</u>	5 years
<u>Amount of Down Payment:</u>	\$ 2,100

(22) Purpose: Acquisition of KA Stalker Radar units for the Township Police Department, and including all work and materials necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$27,984
<u>Maximum Amount of Bonds or Notes:</u>	\$26,590
<u>Period or Average Period of Usefulness:</u>	10 years
<u>Amount of Down Payment:</u>	\$ 1,399

(23) Purpose: Landscaping improvements to the Township Municipal Complex, and including all work and materials necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$11,025
<u>Maximum Amount of Bonds or Notes:</u>	\$10,474
<u>Period or Average Period of Usefulness:</u>	15 years
<u>Amount of Down Payment:</u>	\$ 551

(24) Purpose: Renovations to various Township Buildings, as more fully described on a list on file with the Township Clerk, and including all work and materials necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$26,251
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<u>Maximum Amount of Bonds or Notes:</u>	\$24,938
<u>Period or Average Period of Usefulness:</u>	15 years
<u>Amount of Down Payment:</u>	\$ 1,313

(25) Purpose: Various improvements the Township Senior Center, as more fully described on a list on file with the Township Clerk, and including all work and materials necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$31,501
<u>Maximum Amount of Bonds or Notes:</u>	\$29,926
<u>Period or Average Period of Usefulness:</u>	15 years
<u>Amount of Down Payment:</u>	\$ 1,575

(26) Purpose: Acquisition of three dump body replacements for the Township Department of Public Works, and including all work and materials necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$39,691
<u>Maximum Amount of Bonds or Notes:</u>	\$37,706
<u>Period or Average Period of Usefulness:</u>	15 years
<u>Amount of Down Payment:</u>	\$ 1,985

(27) Purpose: Acquisition of a fuel dispensing system and camera setup for the Township Department of Public Works, and including all work and materials necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$19,846
<u>Maximum Amount of Bonds or Notes:</u>	\$18,854
<u>Period or Average Period of Usefulness:</u>	15 years
<u>Amount of Down Payment:</u>	\$ 992

(28) Purpose: Acquisition of two dump trucks with plows and sanders for the Township Department of Public Works, and including all work and materials necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$291,070
<u>Maximum Amount of Bonds or Notes:</u>	\$276,516
<u>Period or Average Period of Usefulness:</u>	5 years
<u>Amount of Down Payment:</u>	\$ 14,554

(29) Purpose: Acquisition of a mobile line striper for the Township Department of Public Works, and including all work and materials necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$105,004
<u>Maximum Amount of Bonds or Notes:</u>	\$ 99,754
<u>Period or Average Period of Usefulness:</u>	15 years
<u>Amount of Down Payment:</u>	\$ 5,250

(30) Purpose: Township wide road overlay program, as more fully described on a list on file with the Township Clerk, and including all work and materials necessary therefor or incidental thereto

<u>Appropriation and Estimated Cost:</u>	\$787,528
<u>Maximum Amount of Bonds or Notes:</u>	\$748,152
<u>Period or Average Period of Usefulness:</u>	10 years
<u>Amount of Down Payment:</u>	\$ 39,376

(31) Purpose: Various park improvements and acquisition of equipment as more fully described on a list on file with the Township Clerk, and including all work and materials necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$21,001
<u>Maximum Amount of Bonds or Notes:</u>	\$19,951
<u>Period or Average Period of Usefulness:</u>	15 years
<u>Amount of Down Payment:</u>	\$ 1,050

(32) Purpose: Various improvements to the Vanderburg Soccer Complex and walkways, and including all work and materials necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$31,501
<u>Maximum Amount of Bonds or Notes:</u>	\$29,926
<u>Period or Average Period of Usefulness:</u>	15 years
<u>Amount of Down Payment:</u>	\$ 1,575

(33) Purpose: Various field turf improvements, and including all work and materials necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$656,274
<u>Maximum Amount of Bonds or Notes:</u>	\$623,460
<u>Period or Average Period of Usefulness:</u>	15 years
<u>Amount of Down Payment:</u>	\$ 32,814

(34) Purpose: Upgrading of the Township War Memorial, and including all work and materials necessary therefor or incidental thereto.

<u>Appropriation and Estimated Cost:</u>	\$27,826
<u>Maximum Amount of Bonds or Notes:</u>	\$26,435
<u>Period or Average Period of Usefulness:</u>	15 years
<u>Amount of Down Payment:</u>	\$ 1,391

(b) The estimated maximum amount of bonds or notes to be issued for the several improvements or purposes is as stated in Section 2 hereof.

(c) The estimated cost of the several improvements or purposes is equal to the amount of the appropriation herein made therefor.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of N.J.S.A. 40A:2-8.1. The chief financial officer is hereby authorized to sell part or all of the notes from time to time, at not less than par and accrued interest, at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 5. The capital budget or temporary capital budget (as applicable) of the Township is hereby amended to conform with

the provisions of this bond ordinance to the extent of any inconsistency herewith. In the event of any such inconsistency and amendment, the resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget or amended temporary capital budget (as applicable) and capital program as approved by the Director of the Division of Local Government Services is on file with the Township Clerk and is available there for public inspection.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The several improvements or purposes described in Section 3 of this bond ordinance are not current expenses. They are improvements or purposes the Township may lawfully undertake as a general improvement, and no part of the costs thereof have been or shall be specially assessed on property specially benefited thereby.

(b) The average period of usefulness of the several improvements or purposes, computed on the basis of the respective amounts or obligations authorized for each improvement or purpose and the reasonable life thereof within the limitations of the Local Bond Law, is 11.91 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Township as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$3,501,700, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$175,650 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the several improvements or purposes.

(e) The Township reasonably expects to commence the acquisition and/or construction of the several improvements or purposes described in Section 3 hereof, and to advance all or a portion of the costs in respect thereof, prior to the issuance of bonds or notes hereunder. To the extent such costs are advanced, the Township further reasonably expects to reimburse such expenditures from the proceeds of the bonds or notes authorized by

this bond ordinance, in an aggregate amount not to exceed the amount of bonds or notes authorized in Section 2 hereof.

Section 7. Any grant moneys received for the purposes described in Section 3 hereof shall be applied either to direct payment of the cost of the improvements or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized hereunder shall be reduced to the extent that such funds are so used.

Section 8. The full faith and credit of the Township is hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Township, and the Township shall be obligated to levy ad valorem taxes upon all the taxable real property within the Township for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 9. The Township hereby covenants to take any action necessary or refrain from taking such action in order to preserve the tax-exempt status of the bonds and notes authorized hereunder as is or may be required under the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder (the "Code"), including compliance with the Code with regard to the use, expenditure, investment, timely reporting and rebate of investment earnings as may be required thereunder.

Section 10. To the extent that any previous ordinance or resolution is inconsistent herewith or contradictory hereto, said ordinance or resolution is hereby repealed or amended to the extent necessary to make it consistent herewith.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

The following Res. #2006-257/Ord. #2006-20 (Fees - Building Dept.) was introduced by reference, offered by Councilman Pernice, seconded by Councilman Rosenthal and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2006-257

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2006-20

AN ORDINANCE AMENDING AND SUPPLEMENTING SECTION 55-3  
"FEES" OF CHAPTER 55 "CONSTRUCTION CODES, UNIFORM" OF  
THE CODE OF THE TOWNSHIP OF MARLBORO

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on August 10, 2006 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

WHEREAS, the Township Council desires to update the construction permit fees assessed by the Township.

NOW, THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey that subsection A of Section 55-3 "Fees" of Chapter 55 "Construction Codes, Uniform" of the Code of the Township of Marlboro be and hereby amended to read in its entirety in accordance with the attachment hereto; and

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

## A. Construction Permit Fees:

1. Building	
a. Alterations, Repairs, & Remodeling:	
i. General	\$25 per \$1,000 for the first \$50,000 \$20 per \$1,000 for the next \$150,000 \$15 per \$1,000 for the balance
ii. Fence (Flat Fee)	\$75.00
iii. Residential Roof (Flat Fee)	\$75.00
iv. Commercial Roof (Flat Fee)	\$200.00
v. Residential Siding (Flat Fee)	\$75.00
vi. Retaining Walls	[A] \$150 = surface area greater than 550 sq ft. [B] \$75 = surface area of 550 sq ft or less
vii. Above Ground Swimming Pools (Flat Fee)	\$100.00
viii. Inground Swimming Pools	\$150.00
b. New Residential, Commercial, & Industrial:	i. 2.5 cents per cubic foot for the following use groups: B,H, I-1, I-2, I-3, M R-1, R-2, R-3, R-4, R-5 & U ii. Two cents per cubic foot for the following use groups: A-1, A-2, A-3, A-4, A-5, E, F-1, F-2, S-1, & S-2
c. Additions and Expansion of floor area:	i. Two and one-half cents per cubic foot for the following use groups: B,H, I-1, I-2, I-3, M R-1, R-2, R-3, R-4, R-5, & U ii. Two cents per cubic foot for the following use groups: A-1, A-2, A-3, A-4, A-5, E, F-1, F-2, S-1, & S-2
d. Demolition or removal of:	
i. Residential Accessory buildings	\$100 < 2,000 SF and < 30'H
ii. Residential buildings	[A]\$100 = 2,000 SF and < 30'H [B]\$150 = 2,000 SF to 5,000 SF [C]\$200 > 5,000 SF and < 35'H
iii. Commercial buildings	\$200.00
iv. Lead Abatement	\$140 + \$28 for clearance Certificate
v. Asbestos	\$100.00
e. Signs:	i. \$65 minimum Fee ii. \$4 per sq ft for the first 100 sq ft. iii. \$3 per sq ft for the next 400 sq ft. iv. \$2 per sq ft thereafter
f. Certificates of Occupancy	
i. Residential Multiple Certificate, Per unit	\$50.00
ii. Residential Certificate of Occupancy (new)	\$50.00
iii. Certificate of Continued Occupancy (all)	\$50.00
iv. Commercial CO	10% of the cost of the permit
v. Asbestos	\$50.00
vi. Use Group Change	\$200.00
g. Additional Fees:	
i. Minimum building Subcode Fee	\$65.00
ii. Extending/Updating Expired Permits	\$65.00
iii. For anything not listed	\$65.00
iv. Application for Variation	[A]\$594 for Class I structures [B]\$120 for Class II and Class III structures
v. Resubmission of an Application for Variation	[A]\$229 for Class I structures [B]\$65 for Class II and Class III structures
vi. Surcharge	[A]\$.0265 per cubic ft of volume of new construction [B]\$1.35 per \$1,000 of construction value

2. PLUMBING		
a.	Minimum Plumbing Fee	\$65.00
b.	Each fixture	\$10.00
c.	Water utility connection	\$65.00
d.	Sewer utility connection	\$65.00
e.	Garbage disposal	\$10.00
f.	Air-conditioner unit	\$65.00
g.	Sewer ejector	\$65.00
h.	Grease trap	\$65.00
i.	Backflow device	\$65.00
j.	Vent stack	\$10.00
k.	Domestic furnace	\$65.00
l.	Water conditioners/filter systems/refrig. Unit	\$65.00
m.	Active solar systems	\$45.00
n.	Gas Log	\$65.00
o.	Fuel oil piping	\$45.00
p.	Steam boiler	\$65.00
q.	Hot-water boiler	\$65.00
r.	Plumbing devices- Other than listed	\$65.00
s.	Steam Unit - Shower	\$65.00
t.	Gas Generator	\$65.00
u.	Water Heater	\$65.00
v.	Floor, Roof, and Hub Drains	\$15.00
w.	Whirlpool/Spa and Hot Tubs	\$65.00
x.	Gas Piping - Each Appliance	\$10.00
y.	Extending/Updating Expired Permits	\$65.00
3. FIRE		
a.	Smoke and heat detectors: (# of detectors) also includes horn strobs, devices, etc.:	i. 1 to 20 = \$45 ii. 21 to 100 = \$111 iii. 101 to 200 = \$212 iv. 201 to 400 = \$550 v. 401 to 1,000 = \$761 vi. Over 1,000 = \$972
b.	Sprinkler fees for wet and dry sprinkler heads (# of heads):	i. 1-20 = \$45 ii. 21-100 = \$70 iii. 101-200 = \$125 iv. 201-400 = \$275 v. 401-1,000 = \$375 vi. over 1,000 = \$475
c.	Additional Fees:	
i.	Each Standpipe	\$90.00
ii.	Each Incinerator	\$100.00
iii.	Each Crematorium	\$100.00
iv.	Each gas or oil-fired appliance	\$65.00
d.	Preengineered suppression systems:	
i.	Suppressions not list	\$70.00
ii.	CO2 suppression	\$70.00
iii.	Halon suppression	\$70.00
iv.	Foam suppression	\$70.00
v.	Dry Chemical	\$70.00
vi.	Wet Chemical	\$70.00
vii.	Kitchen hood exhaust system	\$70.00
e.	Fuel Tank Installations	\$65.00
f.	Fuel Tank Abandonment	\$65.00
g.	Replacement heating Unit	\$65.00

h.	Wood stove installation	\$65.00
i.	Extending/Updating Expired Permits	\$65.00
j.	Anything not listed	\$65.00
k.	Minimum Fire Subcode Fee (commercial)	\$65.00
l.	Minimum Fire Subcode Fee (residential)	\$65.00
4.	ELECTRICAL	
a.	Switching, lighting, and receptacle outlet (devices of less than 1 horsepower or 1 kilowatt included)	i. 1 to 50 = \$55 ii. Each Additional 25 = \$20
b.	Service panels, entrances, and subpanels	i. 200 amps or less = \$55 ii. 200-1,000 amps = \$70 iii. For larger than 1,000 amps = \$335
c.	Transformers and Generators	i. From 1 kilowatt to 10 kilowatts = \$35 ii. From 10 kilowatts to 45 kilowatts = \$45 iii. From 45 kilowatts to 112.5 kilowatts = \$85 iv. If larger than the above = \$335
d.	Motors and Electrical Devices (control equipment, heating, compressor, heat pump, air handler, strip heater, water heater, dryer, oven, range, furnace, and dishwasher):	i. 1 horsepower to 10 horsepower = \$35 ii. 10 horsepower to 50 horsepower = \$45 iii. 50 horsepower to 100 horsepower = \$85 iv. If larger than the above = \$335
e.	Bonding, pool/vault (outlets/ receptacles)	\$45/\$75
f.	Feeders	
	i. Each 100 amperes	\$45.00
	ii. Each additional 100 amperes	\$18.00
g.	Photo Voltic Systems	\$200.00
h.	Any other Device	\$65.00
i.	Extending/Updating Expired Permits	\$65.00
j.	Anything Not Listed	\$65.00
k.	Minimum Electrical Subcode Fee	\$65.00
5.	ELEVATORS	
a.	The fee for a permit shall be \$25.00 per unit, plus costs charged by an on-site inspection agency as follows for witnessing acceptance tests:	
	i. Traction and winding drum elevators	
	[A] 1 through 10 floors	\$225.00
	[B] Over 10 floors	\$375.00
	ii. Hydraulic Elevators	\$200.00
	iii. Roped hydraulic elevators	\$225.00
	iv. Escalators and moving walks	\$200.00
	v. Dumbwaiters	\$50.00
	vi. Stairway chair lifts, inclined and vertical wheelchair lifts and man lifts	\$50.00
	vii. Residential devices	\$150.00
	viii. Oil buffers (per oil buffer)	\$43.00
	ix. Counterweight governor and safeties	\$100.00 \$75.00
	x. Auxiliary power generator	
b.	Semiannual routine inspections:	(fees per unit)
	i. Traction and winding drum elevators	
	[A] 1 through 10 floors	\$140.00
	[B] Over 10 floors	\$180.00
	ii. Hydraulic Elevators	\$100.00
	iii. Roped hydraulic elevators	\$140.00
	iv. Escalators and moving walks	\$140.00
c.	Annual Inspections and witnessing of tests:	
	i. Traction and winding drum elevators	
	[A] 1 through 10 floors	\$200.00
	[B] Over 10 floors	\$240.00
	ii. Hydraulic Elevators	\$150.00
	iii. Roped hydraulic elevators	\$200.00
	iv. Escalators and moving walks	\$320.00

v.	Dumbwaiters	\$80.00
vi.	Stairway chair lifts, inclined and vertical wheelchair lifts and man lifts	\$120.00
d.	Additional yearly periodic inspection fees:	
i.	Oil buffers (per oil buffer)	\$43.00
ii.	Counterweight governor and safeties	\$100.00
iii.	Auxiliary power generator	\$75.00
e.	Three and five year test/inspection fees:	
i.	Traction and winding drum elevators	
	[A] (five-year inspection)	
	[B] 1 through 10 floors	\$340.00
	[C] Over 10 floors	\$380.00
ii.	Hydraulic and roped hydraulic	
	[A] 3-year inspection	\$250.00
	[B] 5-year inspection	\$150.00

The following Res. #2006-274 (Approving and Endorsing Acquisition of Development Easement by Mon. County Agricultural Board - B. 156, L. 3) was introduced by reference, offered by Council President Morelli, seconded by Councilman Pernice and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-274

A RESOLUTION AUTHORIZING THE SALE OF THE DEVELOPMENT  
EASEMENT FOR THE PROPERTY LOCATED AT BLOCK 156, LOT 3 IN  
THE TOWNSHIP OF MARLBORO TO THE MONMOUTH COUNTY  
AGRICULTURE DEVELOPMENT BOARD.

WHEREAS, the Monmouth County Agriculture Development Board is considering the purchase of the development easement for the property located as follows in the Township of Marlboro:

Block 156, Lot 3 owned by F&F Nurseries, comprising approximately 80 acres; and

WHEREAS, N.J.A.C. 2:76-6.7 requires the governing body of a municipality to review applications for the purchase of development easements as a condition for receiving State Agriculture Development Committee grant funds; and

WHEREAS, the Township Council of the Township of Marlboro is aware of the future restrictions on property protected from development as a result of the purchase of a development easement in accordance with the Right to Farm Act and the Agriculture Retention and Development Act; and

WHEREAS, the Monmouth County Agriculture Development Board has established a policy requiring local cost share commitment for all easement purchases.

NOW, THEREFORE, BE IT RESOLVED that the Township of Marlboro, County of Monmouth, State of New Jersey does hereby approve and endorse the acquisition of the development easement on the above-referenced property; and

BE IT FURTHER RESOLVED that the tax revenues deposited in the Township's "Municipal Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" and dedicated for, among other purposes, farmland preservation be made available to assist the County in the purchase of development easements at the rate specified within the Monmouth County Agriculture Development Board's "Procedures Governing the Funding of Easement Purchases" policy adopted August 7, 2002; and

BE IT FURTHER RESOLVED that three certified copies of the Resolution be sent to the Monmouth County Agriculture Development Board office and one copy each to the Marlboro Township Planning Board, Tax Assessor and Tax Collector.

Council took a 10-minute recess.

The following Res. #2006-258/Ord. #2006-21 (Amending Chapter 84 - Stormwater Management) was introduced by reference, offered by Councilman Pernice, seconded by Council President Morelli and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-258

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2006-21

AN ORDINANCE DELETING SECTION 84-104 "STORMWATER MANAGEMENT", ARTICLE VIII "SUBDIVISIONS: DESIGN AND PERFORMANCE STANDARDS", CHAPTER 84 "LAND USE DEVELOPMENT AND REGULATIONS" OF THE CODE OF THE TOWNSHIP OF MARLBORO AND ADOPTING A NEW ARTICLE ENTITLED ARTICLE IX "STORMWATER MANAGEMENT" OF CHAPTER 84 "LAND USE DEVELOPMENT AND REGULATIONS"

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on August 10, 2006 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2006-21

AN ORDINANCE DELETING SECTION 84-104 "STORMWATER MANAGEMENT", ARTICLE VIII "SUBDIVISIONS: DESIGN AND PERFORMANCE STANDARDS", CHAPTER 84 "LAND USE DEVELOPMENT AND REGULATIONS" OF THE CODE OF THE TOWNSHIP OF MARLBORO AND ADOPTING A NEW ARTICLE ENTITLED ARTICLE IX "STORMWATER MANAGEMENT" OF CHAPTER 84 "LAND USE DEVELOPMENT AND REGULATIONS"

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey that Section 84-104 "Stormwater Management" of Chapter 84 "Land Use Development and Regulations" of the Code of the Township of Marlboro be and hereby is deleted in its entirety and said section shall be reserved for future use; and

BE IT FURTHER ORDAINED, that a new article entitled Article IX "Stormwater Management" shall be added to Chapter 84 "Land Use Development and Regulations" and shall read in its entirety as follows:

"Article IX, Stormwater Management

§ 84-150. Scope and Purpose.

Policy Statement

Flood control, groundwater recharge, and pollutant reduction through nonstructural or low impact techniques shall be explored before relying on structural BMPs. Structural BMPs should be integrated with nonstructural stormwater management strategies and proper maintenance plans. Nonstructural strategies include both environmentally sensitive site design and source controls that prevent pollutants from being placed on the site or from being exposed to stormwater. Source control plans

should be developed based upon physical site conditions and the origin, nature, and the anticipated quantity or amount of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.

#### Purpose

It is the purpose of this article to establish minimum stormwater management requirements and controls for "major development," as defined in § 84-151.

#### C. Applicability

1. This article shall be applicable to all site plans and subdivisions for the following major developments that require preliminary or final site plan or subdivision review:

- a. Non-residential major developments; and
- b. Aspects of residential major developments that are not regulated by the Residential Site Improvement Standards at N.J.A.C. 5:21.

2. This article shall also be applicable to all major developments undertaken by Township of Marlboro.

#### D. Compatibility with Other Permit and Ordinance Requirements

Development approvals issued for subdivisions and site plans pursuant to this article are to be considered an integral part of development approvals under the subdivision and site plan review process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this article shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This article is not intended to interfere with or annul any other ordinances, rule or regulation, statute, or other provision of law except that, where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall apply.

§ 84-151. Definitions.

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application. The definitions below are the same as or based on the corresponding definitions in the Stormwater Management Rules at N.J.A.C. 7:8-1.2.

"Agricultural development" means land uses normally associated with the production of food, fiber and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacturing of agriculturally related products.

"Compaction" means the increase in soil bulk density.

"Core" means a pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

"County Review Agency" means an agency designated by the County Board of Chosen Freeholders to review the Township of Marlboro's stormwater management plans and implementing ordinance(s). The county review agency may either be:

A county planning agency; or

A county water resource association created under N.J.S.A. 58:16A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.

"Department" means the New Jersey Department of Environmental Protection.

"Design engineer" means a person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.

"Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, by any person, for which permission is required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. In the case of development of agricultural lands, development means: any activity that

requires a State permit; any activity reviewed by the County Agricultural Board (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act , N.J.S.A 4:1C-1 et seq.

"Drainage area" means a geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving waterbody or to a particular point along a receiving waterbody. "Environmentally critical areas" means an area or feature which is of significant environmental value, including but not limited to: stream corridors; natural heritage priority sites; habitat of endangered or threatened species; large areas of contiguous open space or upland forest; steep slopes; and well head protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program.

"Erosion" means the detachment and movement of soil or rock fragments by water, wind, ice or gravity.

"Flood Hazard Area" Area of potential risk due to sudden and temporary increase of surface water flow due to a storm event, typically, the 100-year storm.

"Impervious surface" means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

"Infiltration" is the process by which water seeps into the soil from precipitation.

"Major development" means any "development" that provides for ultimately disturbing one or more acres of land or results in a net increase of one-quarter (1/4) acre or more of impervious surface. Disturbance for the purpose of this rule is the placement of impervious surface or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation.

"Mitigation" means an action by an applicant-providing compensation or offset actions for onsite stormwater management requirements where the applicant has demonstrated the inability or impracticability of strict compliance with the stormwater management requirements set forth in NJAC 7:8, in an adopted regional stormwater management plan, or in this local ordinance, and has received a waiver from strict compliance from the municipality. Mitigation, for the purposes of this ordinance, includes both the mitigation plan, detailing how the projects applicants failure to strictly comply

will be compensated, and the implementation of the approved mitigation plan within the same HUC-14 subwatershed within which the subject project is proposed (if possible and practical), or a contribution of funding toward a regional stormwater management plan, or provision for equivalent treatment at an alternative location, or other equivalent water quality benefit.

"Municipality" means Marlboro Township.

"Node" means an area designated by the State Planning Commission concentrating facilities and activities that are not organized in a compact form.

"Nutrient" means a chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.

"Person" means any individual, corporation, company, partnership, firm, association, the Township of Marlboro or political subdivision of this State subject to municipal jurisdiction pursuant to the Municipal Land Use Law , N.J.S.A. 40:55D-1 et seq.

"Pollutant" means any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)), thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, ground waters or surface waters of the State, or to a domestic treatment works. "Pollutant" shall include both hazardous and non-hazardous pollutants.

"Recharge" means the volume of water from precipitation that infiltrates into the ground and is not evapotranspired.

"Sediment" means solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

"Site" means the lot or lots upon which a development is to occur or has occurred.

"Soil" means all unconsolidated mineral and organic material of any origin.

"Solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids.

"Source Controls"

"State Development and Redevelopment Plan Metropolitan Planning Area (PA1)" means an area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the state's future redevelopment and revitalization efforts.

"State Plan Policy Map" is defined as the geographic application of the State Development and Redevelopment Plan's goals and statewide policies, and the official map of these goals and policies.

"Stormwater" means water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities, or conveyed by snow removal equipment.

"Stormwater runoff" means water flow on the surface of the ground or in storm sewers, resulting from precipitation.

"Stormwater management basin" means an excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management basin may either be normally dry (that is, a detention basin or infiltration basin), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).

"Stormwater management measure" means any structural or nonstructural strategy, practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.

"Time of concentration" is defined as the time it takes for runoff to travel from the hydraulically most distant point of the watershed to the point of interest within a watershed;

"Total suspended solids" The sum of dissolved and undissolved solids and particulate matter of a buoyancy and/or specific gravity that prohibits their settling in runoff.

"Waters of the State" means the ocean and its estuaries, all springs, streams, wetlands, and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

"Wetlands" or "wetland" means an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal

circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

§ 84-152. General Standards.

A. Design and Performance Standards for Stormwater Management Measures

1. Stormwater management measures for major development shall be developed to meet the erosion control, groundwater recharge, stormwater runoff quantity, and stormwater runoff quality standards in § 84-153. To the maximum extent practicable, these standards shall be met by incorporating nonstructural stormwater management strategies into the design. If these strategies alone are not sufficient to meet these standards, structural stormwater management measures necessary to meet these standards shall be incorporated into the design.
2. The standards in this article apply only to new major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new major development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or Water Quality Management Plan adopted in accordance with Department rules.

§ 84-153. Stormwater Management Requirements for Major Development.

- A. The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with § 84-159.
- B. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department's Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlnebergi* (bog turtle).
- C. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of § 84-153(F) and (G):

1. The construction of an underground utility line provided that the disturbed areas are revegetated upon completion;
2. The construction of an aboveground utility line provided that the existing conditions are maintained to the maximum extent practicable; and
3. The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of 14-feet, provided that the access is made of permeable material.

D. A waiver from strict compliance from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of § 84-153(F) and (G) may be obtained for the enlargement of an existing public roadway; or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:

1. The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;
2. The applicant demonstrates through an alternatives analysis, that through the use of nonstructural and structural stormwater management strategies and measures, the option selected complies with the requirements of § 84-153(F) and (G) to the maximum extent practicable;
3. The applicant demonstrates that, in order to meet the requirements of § 84-153(F) and (G), existing structures currently in use, such as homes and buildings, would need to be condemned; and
4. The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under D.3 above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of § 84-153(F) and (G) that were not achievable on-site.

E. Nonstructural Stormwater Management Strategies

1. To the maximum extent practicable, the standards in § 84-153(F) and (G) shall be met by incorporating nonstructural stormwater management strategies set forth at § 84-153(E) into the design. The applicant shall identify the nonstructural measures incorporated into the design of the project. If the applicant contends that it is not feasible for engineering, environmental,

or safety reasons to incorporate any nonstructural stormwater management measures identified in § 84-153(E)(2) below into the design of a particular project, the applicant shall identify the strategy considered and provide a basis for the contention.

2. Nonstructural stormwater management strategies incorporated into site design shall:

- a. Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;
- b. Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces;
- c. Maximize the protection of natural drainage features and vegetation;
- d. Minimize the decrease in the time of concentration from pre-construction to post construction.
- e. Minimize land disturbance including clearing and grading;
- f. Minimize soil compaction;
- g. Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers and pesticides;
- h. Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas;
- i. Provide other source controls to prevent or minimize the use or exposure of pollutants at the site, in order to prevent or minimize the release of those pollutants into stormwater runoff. Such source controls include, but are not limited to:
  - (1) Site design features that help to prevent accumulation of trash and debris in drainage systems, including features that satisfy § 84-153(E)(3) below;
  - (2) Site design features that help to prevent discharge of trash and debris from drainage systems;
  - (3) Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and
  - (4) When establishing vegetation after land disturbance, applying fertilizer in accordance with the requirements established under the

Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules.

3. Site design features identified under § 84-153(E)(2)(i)(2) above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For exemptions to this standard see § 84-153(4)(E)(3)(c) below.

a. Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:

(1) The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or

(2) A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension. Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.

b. Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.

c. This standard shall not apply under the following conditions or situations:

(1) Where the Township Engineer determines that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;

(2) Where flows from the water quality design storm as specified in § 84-153(G)(1) are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:

(a) A rectangular space four and five-eighths inches long and one and one-half inches wide (this option does not apply for outfall netting facilities); or

(b) A bar screen having a bar spacing of 0.5 inches.

(3) Where flows are conveyed through a trash rack that has parallel bars with one-inch (1") spacing between the bars, to the elevation of the water quality design storm as specified in § 84-153(G)(1); or

(4) Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

4. Any land area used as a nonstructural stormwater management measure to meet the performance standards in § 84-153(G) and (F) shall be dedicated to a government agency, subjected to a conservation restriction filed with the Office of the Monmouth County Clerk, or subject to an approved equivalent restriction that ensures that measure or an equivalent stormwater management measure approved by the Township Engineer is maintained in perpetuity.

5. Guidance for nonstructural stormwater management strategies is available in the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in § 84-156, or found on the Department's website at [www.njstormwater.org](http://www.njstormwater.org).

F. Erosion Control, Groundwater Recharge and Runoff Quantity Standards

1. This subsection contains minimum design and performance standards to control erosion, encourage and control infiltration and groundwater recharge, and

control stormwater runoff quantity impacts of major development.

a. The minimum design and performance standards for erosion control are those established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. and implementing rules.

b. The minimum design and performance standards for groundwater recharge are as follows:

(1) The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at § 84-154, either:

(a) Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100 percent of the average annual pre-construction groundwater recharge volume for the site; or

(b) Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the 2-year storm is infiltrated.

(2) This groundwater recharge requirement does not apply to projects within the "urban redevelopment area," or to projects subject to (3) below.

(3) The following types of stormwater shall not be recharged:

(a) Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than "reportable quantities" as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and

(b) Industrial stormwater exposed to "source material." "Source material" means any material(s) or machinery, located at an industrial facility, that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.

(4) The design engineer shall assess the hydraulic impact on the groundwater table and design the site so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table so as to cause surficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems and other subsurface structures in the vicinity or down gradient of the groundwater recharge area.

c. In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at § 84-154, complete one of the following:

(1) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the two, 10, and 100-year storm events do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;

(2) Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the two, 10, and 100-year storm events and that the increased volume or change

in timing of stormwater runoff will not increase flood

damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;

(3) Design stormwater management measures so that the post-construction peak runoff rates for the 2, 10 and 100 year storm events are 50, 75 and 80 percent, respectively, of the preconstruction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed. The percentages shall not be applied to post-construction stormwater runoff into tidal flood hazard areas if the increased volume of stormwater runoff will not increase flood damages below the point of discharge; or

2. Any application for a new agricultural development that meets the definition of major development at § 84-151 shall be submitted to the Freehold Soils Conservation District (FSCD) for review and approval in accordance with the requirements of this section and any applicable FSCD guidelines for stormwater runoff quantity and erosion control.

G. Stormwater Runoff Quality Standards

1. Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff by 80 percent of the anticipated load from the developed site, expressed as an annual average. Stormwater management measures shall only be required for water quality control if an additional 1/4-acre of impervious surface is being proposed on a development site. The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollution Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 1. The calculation of the volume of runoff may

take into account the implementation of non-structural and structural stormwater management measures.

Table 1: Water Quality Design Storm Distribution

Time Cumulative Rainfall (Minutes)	Cumulative Rainfall (Inches)	Time Cumulative Rainfall (Minutes)	(Inches)
0	0.0000	65	0.8917
5	0.0083	70	0.9917
10	0.0166	75	1.0500
15	0.0250	80	1.0840
20	0.0500	85	1.1170
25	0.0750	90	1.1500
30	0.1000	95	1.1750
35	0.1330	100	1.2000
40	0.1660	105	1.2250
45	0.2000	110	1.2334
50	0.2583	115	1.2417
55	0.3583	120	1.2500
60	0.6250		

2. For purposes of TSS reduction calculations, Table 2 below presents the presumed removal rates for certain BMPs designed in accordance with the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in § 84-156, or found on the Department's website at [www.njstormwater.org](http://www.njstormwater.org). The BMP Manual and other sources of technical guidance are listed in § 84-156. TSS reduction shall be calculated based on the removal rates for the BMPs in Table 2 below. Alternative removal rates and methods of calculating removal rates may be used if the design engineer provides documentation demonstrating the capability of these alternative rates and methods to the review agency.

3. If more than one BMP in series is necessary to achieve the required 80 percent TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

$$R = A + B - (AB)/100$$

Where

R = total TSS percent load removal from application of both BMPs, and  
A = the TSS percent removal rate applicable to the first BMP  
B = the TSS percent removal rate applicable to the second BMP

Table 2: TSS Removal Rates for BMPs

Best Management Practice	TSS Percent Removal Rate (Percent)
<i>Bioretention Systems</i>	90
<i>Constructed Stormwater Wetland</i>	90
<i>Extended Detention Basin</i>	40-60
<i>Infiltration Structure</i>	80
<i>Manufactured Treatment Device</i>	See Section 6.C
<i>Sand Filter</i>	80
<i>Vegetative Filter Strip</i>	60-80
<i>Wet Pond</i>	50-90

4. If there is more than one onsite drainage area, the 80 percent TSS removal rate shall apply to each drainage area, unless the runoff from the subareas converge on site in which case the removal rate can be demonstrated through a calculation using a weighted average.

5. Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include nonstructural strategies and structural measures that optimize nutrient removal while still achieving the performance standards in § 84-153(F) and (G).

6. In accordance with the definition of FW1 at N.J.A.C. 7:9B-1.4, stormwater management measures shall

be designed to prevent any increase in stormwater runoff to waters classified as FW1.

7. Special water resource protection areas have been established along all waters designated Category One at N.J.A.C. 7:9B, and perennial or intermittent streams that drain into or upstream of the Category One waters as shown on the USGS Quadrangle Maps or in the County Soil Surveys, within the associated HUC14 drainage area. These areas have been established for the protection of water quality, aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, and exceptional fisheries significance of those established Category One waters. These areas shall be designated and protected as follows:

a. The applicant shall preserve and maintain a special water resource protection area in accordance with one of the following:

(1) A 300-foot special water resource protection area shall be provided on each side of the waterway, measured perpendicular to the waterway from the top of the bank outwards or from the centerline of the waterway where the bank is not defined, consisting of existing vegetation or vegetation allowed to follow natural succession.

(2) Encroachment within the designated special water resource protection area under Subsection (1) above shall only be allowed where previous development or disturbance has occurred (for example, active agricultural use, parking area or maintained lawn area). The encroachment shall only be allowed where applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable. In no case shall the remaining special water resource protection area be reduced to less than 150 feet as measured perpendicular to the top of bank of the waterway or centerline of the waterway where the bank is undefined. All encroachments proposed under this subparagraph shall be subject to review and approval by the Department.

b. All stormwater shall be discharged outside of and flow through the special water resource protection area and shall comply with the Standard for Off-Site Stability in the "Standards For Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act , N.J.S.A. 4:24-39 et seq.

c. If stormwater discharged outside of and flowing through the special water resource protection area cannot comply with the Standard For Off-Site Stability in the "Standards for Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act , N.J.S.A. 4:24-39 et seq., then the stabilization measures in accordance with the requirements of the above standards may be placed within the special water resource protection area, provided that:

- (1) Stabilization measures shall not be placed within 150 feet of the Category One waterway;
- (2) Stormwater associated with discharges allowed by this section shall achieve a 95 percent TSS post-construction removal rate;
- (3) Temperature shall be addressed to ensure no impact on the receiving waterway;
- (4) The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable;
- (5) A conceptual project design meeting shall be held with the appropriate Department staff and Soil Conservation District staff to identify necessary stabilization measures; and
- (6) All encroachments proposed under this section shall be reviewed and approved by the New Jersey Department of Environmental Protection prior to approval by the review agency

d. Paragraph G.8 does not apply to the construction of one individual single family dwelling that is not part of a larger development on a lot receiving preliminary or final subdivision approval on or before February 2, 2004 , provided that the construction begins on or before February 2, 2009.

§ 84-154. Calculation of Stormwater Runoff and Groundwater Recharge.

A. Stormwater runoff shall be calculated in accordance with the following:

1. The design engineer shall calculate runoff using one of the following methods:

a. The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in the NRCS National Engineering Handbook Section 4 - Hydrology and Technical Release 55 - Urban Hydrology for Small Watersheds; or

b. The Rational Method for peak flow and the Modified Rational Method for hydrograph computations.

2. For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the pre-construction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term "runoff coefficient" applies to both the NRCS methodology at § 84-154(A)(1)(a) and the Rational and Modified Rational Methods at § 84-154(A)(1)(b). A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover have existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).

3. In computing pre-construction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or culverts, that may reduce pre-construction stormwater runoff rates and volumes.

4. In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS Technical Release 55 - Urban Hydrology for Small Watersheds and other methods may be employed.

5. If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.

B. Groundwater recharge may be calculated in accordance with the following:

1. The New Jersey Geological Survey Report GSR-32 A Method for Evaluating Ground-Water Recharge Areas in New Jersey, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; at;

<http://www.state.nj.us/dep/njgs/>; or at

New Jersey Geological Survey, 29 Arctic Parkway  
P.O. Box 427 Trenton, New Jersey 08625-0427.

C. Designs of stormwater conduit systems shall utilize the S&S Andrew Hook, 25-year, Rainfall.

§ 84-155. Standards for Structural Stormwater Management Measures.

A. Standards for structural stormwater management measures are as follows:

1. Structural stormwater management measures shall be designed to take into account the existing site conditions, including, for example, environmentally critical areas, wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone).

2. Structural stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure as appropriate, and shall have parallel bars with one-inch (1") spacing between the bars to the

elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than one-third ( $1/3$ ) the width of the diameter of the orifice or one-third ( $1/3$ ) the width of the weir, with a minimum spacing between bars of one-inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of § 84-157(D).

3. Structural stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at N.J.A.C. 5:21-7.3, 7.4, and 7.5 shall be deemed to meet this requirement.

4. At the intake to the outlet from the stormwater management basin, the orifice size shall be a minimum of two and one-half inches in diameter.

5. Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins at § 84-157.

B. Stormwater management measure guidelines are available in the New Jersey Stormwater Best Management Practices Manual. Other stormwater management measures may be utilized provided the design engineer demonstrates that the proposed measure and its design will accomplish the required water quantity, groundwater recharge and water quality design and performance standards established by § 84-153.

C. Manufactured treatment devices may be used to meet the requirements of § 84-153, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department.

#### § 84-156. Sources for Technical Guidance

A. Technical guidance for stormwater management measures can be found in the documents listed at 1 and 2 below, which are available from Maps and Publications, New Jersey Department of Environmental Protection, 428 East State Street, P.O. Box 420, Trenton, New Jersey, 08625; telephone (609) 777-1038.

1. Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended. Information is provided on

stormwater management measures such as:bioretention systems, constructed stormwater wetlands, dry wells, extended detention basins, infiltration structures, manufactured treatment devices, pervious paving, sand filters, vegetative filter strips, and wet ponds.

a. The New Jersey Department of Environmental Protection Stormwater Management Facilities Maintenance Manual, as amended.

b. Additional technical guidance for stormwater management measures can be obtained from the following:

1. The "Standards for Soil Erosion and Sediment Control in New Jersey" promulgated by the State Soil Conservation Committee and incorporated into N.J.A.C. 2:90. Copies of these standards may be obtained by contacting the State Soil Conservation Committee or any of the Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)4. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey 08625; (609) 292-5540;

2. The Rutgers Cooperative Extension Service, 732-932-9306; and

3. The Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)4.

The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey, 08625, (609) 292-5540.

#### § 84-157. Safety Standards for Stormwater Management Basins.

A. This section sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This section applies to any new stormwater management basin.

The provisions of this section are not intended to preempt more stringent municipal or county safety requirements for new or existing stormwater management basins. Marlboro Township and Monmouth County stormwater management plans and ordinances may, pursuant to their authority, require existing stormwater management basins to be retrofitted to meet one or more of the safety standards in § 84-157(B)(1), (2) and (3) for trash racks, overflow grates, and escape provisions at outlet structures.

B. Requirements for Trash Racks, Overflow Grates and Escape Provisions

1. A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the stormwater management basin to ensure proper functioning of the basin outlets in accordance with the following:

- a. The trash rack shall have parallel bars, with no greater than six inch spacing between the bars.
- b. The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure.
- c. The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack.
- d. The trash rack shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs/ft sq.

2. An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:

- a. The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.
- b. The overflow grate spacing shall be no less than two inches across the smallest dimension.
- c. The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs./ft sq.

3. For purposes of this paragraph 3, escape provisions means the permanent installation of ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management basins. Stormwater management basins shall include escape provisions as follows:

- a. If a stormwater management basin has an outlet structure, escape provisions shall be incorporated in or on the structure. With the prior approval of the reviewing agency identified in § 84-157(C) a freestanding outlet structure may be exempted from this requirement.

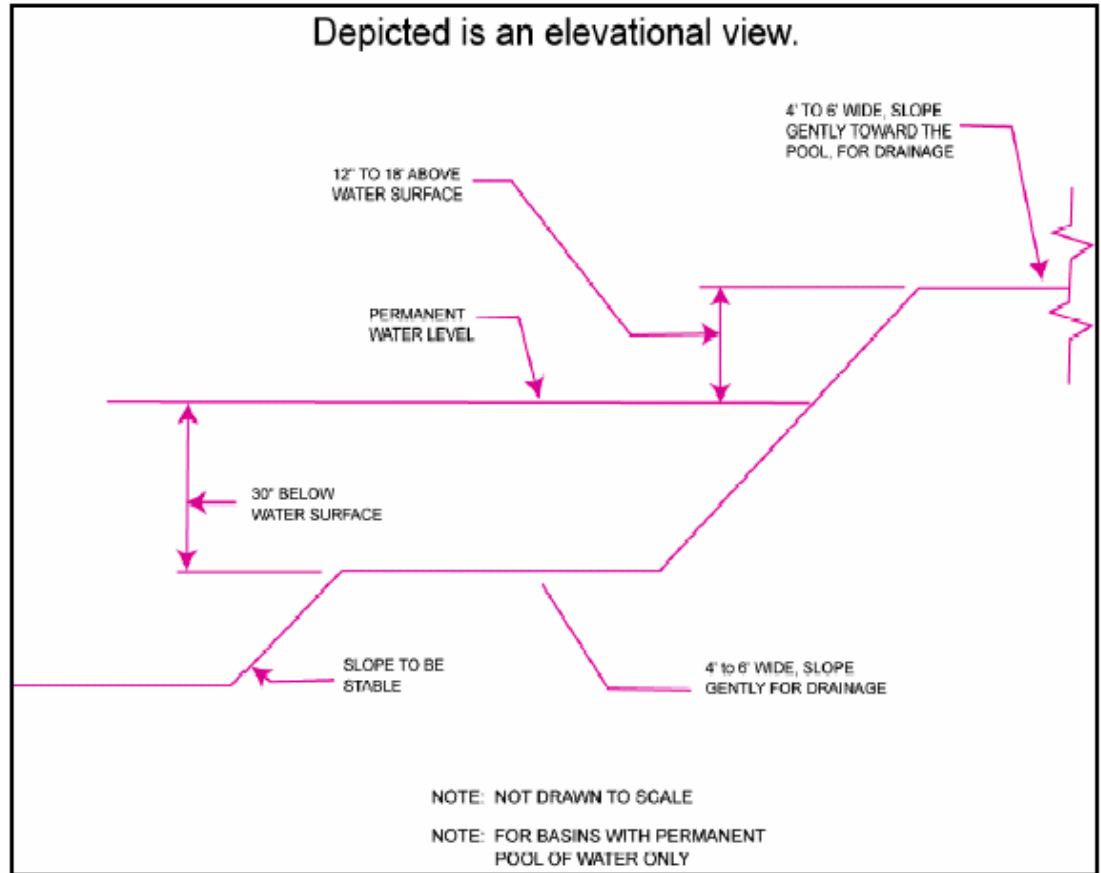
b. Safety ledges shall be constructed on the slopes of all new stormwater management basins having a permanent pool of water deeper than two and one-half feet. Such safety ledges shall be comprised of two steps. Each step shall be four to six feet in width. One step shall be located approximately two and one-half feet below the permanent water surface, and the second step shall be located one to one and one-half feet above the permanent water surface. See § 84-157(D) for an illustration of safety ledges in a stormwater management basin.

c. In new stormwater management basins, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than 3 horizontal to 1 vertical.

C. Variance or Exemption from Safety Standards

1. A variance or exemption from the safety standards for stormwater management basins may be granted only upon a written finding by the appropriate reviewing agency, The Township of Marlboro, the County of Monmouth or the Department, that the variance or exemption will not constitute a threat to public safety.

D. Illustration of Safety Ledges in a New Stormwater Management Basin



§ 84-158. Requirements for a Site Development Stormwater Plan.

A. Submission of Site Development Stormwater Plan

1. Whenever an applicant seeks municipal approval of a development subject to this ordinance, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at § 84-158(C) below as part of the submission of the applicant's application for subdivision or site plan approval.
2. The applicant shall demonstrate that the project meets the standards set forth in this ordinance.
3. The applicant shall submit [specify number] copies of the materials listed in the checklist for site development stormwater plans in accordance with § 84-158(C).

B. Site Development Stormwater Plan Approval - The applicant's Site Development project shall be reviewed as a part of the subdivision or site plan review process by the municipal board or official from which municipal approval is sought. That municipal board or official shall

consult the engineer retained by the Planning and/or Zoning Board (as appropriate) to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this ordinance.

C. Checklist Requirements - The following information shall be required:

1. Topographic Base Map

The Township Engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of 1"=200' or greater, showing 2-foot contour intervals. The map as appropriate may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and flood plains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, and significant natural and manmade features not otherwise shown.

2. Environmental Site Analysis

- A written and graphic description of the natural and man-made features of the site and its environs. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.

3. Project Description and Site Plan(s)

- A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high ground water elevations. A written description of the site plan

and justification of proposed changes in natural conditions may also be provided.

4. Land Use Planning and Source Control Plan

- This plan shall provide a demonstration of how the goals and standards of Sections 84-152 through 84-155 are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.

5. Stormwater Management Facilities Map - The following information, illustrated on a map of the same scale as the topographic base map, shall be included:

- a. Total area to be paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.
- b. Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.

6. Calculations

- a. Comprehensive hydrologic and hydraulic design calculations for the pre-development and postdevelopment conditions for the design storms specified in § 84-153.
- b. When the proposed stormwater management control measures (e.g., infiltration basins) depend on the hydrologic properties of soils, then a soils report shall be submitted. The soils report shall be based on onsite boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.

7. Maintenance and Repair Plan - The design and planning of the stormwater management facility shall meet the maintenance requirements of § 84-159.

8. Waiver from Submission Requirements - The Township Engineer or, if applicable, Board Engineer in consultation with the Township Engineer, may waive

submission of any of the requirements in § 84-158(C)(1) through (C)(6) when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

§ 84-159. Maintenance and Repair.

A. Applicability

1. Projects subject to review as in § 84-150(C) shall comply with the requirements of § 84-159(B) and (C).

B. General Maintenance

1. The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.

2. The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). Maintenance guidelines for stormwater management measures are available in the New Jersey Stormwater Best Management Practices Manual. If the maintenance plan identifies a person other than the developer (for example, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's agreement to assume this responsibility, or of the developer's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.

3. Responsibility for maintenance shall not be assigned or transferred to the Township in a residential development or project. Responsibility for facilities located in commercial or industrial development sites shall be the owner of the site. A named individual shall be responsible for the safety and maintenance of said facility. The posting of a two year maintenance guarantee in accordance with N.J.S.A. 40:55D-53 shall be required for all facilities not dedicated to the Township or other public agency.

4. If the person responsible for maintenance identified under § 84-159(B)(2) above is not a public agency, the maintenance plan and any future revisions based on § 84-159(B)(7) below shall be recorded upon the

deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.

5. Preventative and corrective maintenance shall be performed to maintain the function of the stormwater management measure, including repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of nonvegetated linings.

6. The person responsible for maintenance identified under § 84-159(B)(2) above shall maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders. This log shall be made available for inspection at the request of the Township, County, or the Department.

7. The person responsible for maintenance identified under § 84-159(B)(2) above shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed.

8. The person responsible for maintenance identified under § 84-159(B)(2) above shall retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by Sections 84-159(B)(6) and (B)(7) above.

9. The requirements of Sections 84-159(B)(3) and (B)(4) do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency.

10. In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have fourteen (14) days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or

County may immediately proceed to do so and shall bill the cost thereof to the responsible person.

B. Nothing in this section shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53.

§ 84-160. Penalties.

Any person who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of this article shall be subject to the following penalties:

Failure to comply with any provisions of this Section shall be considered a violation of the Coded Ordinances of the Township of Marlboro and shall be punishable by a fine of one thousand dollars (\$1,000.00) or ninety (90) days in jail, or both. Each day of such violations continuance shall be considered as a separate offence and shall be separately punishable. These penalties shall not be in the exclusive remedy available, and nothing in this Article shall prevent an applicant from obtaining injunctive relief.

§ 84-161. Mitigation Plan.

A. Standards.

1. For the purposes of this Section, "Mitigation" shall incorporate the definition set forth in section 2 of this Ordinance and shall include situations where the applicant has demonstrated the inability or impracticality of strict compliance with the stormwater management requirements set forth in NJAC 7:8 in addition to the requirements set forth in this ordinance.

2. The Board having jurisdiction over an application requiring a stormwater management plan shall have the jurisdiction to grant a waiver from strict compliance with the performance requirements of this ordinance or the Stormwater Management Plan. The waiver may be granted where an applicant has demonstrated the inability or impracticality of strict compliance with the ordinance and/or the Stormwater Management Plan upon the following conditions. The applicant must demonstrate one of the following:

a. An inability to apply any of the Best Management Practices and methodologies as defined and approved herein and in the Stormwater Management Plan, due to

an extraordinary and exceptional situation uniquely affecting the subject property or structures thereon, resulting in a peculiar and exceptional practical difficulty or undue hardship; or

b. That the purposes of this ordinance and stormwater management plan can be advanced by a deviation from the Best Management Practices and methodologies as defined and approved herein and in the Stormwater Management Plan, where the benefits of such deviation substantially outweigh any detriment.

c. In requesting a waiver as to any application, the applicant may submit as reasons for the waiver the site conditions of the proposed project, including soils types; thin soil cover; low permeability soils, and/or shallow depths to groundwater (high groundwater levels), unique conditions which would create an unsafe design, or conditions which would provide a detrimental impact to public health, welfare, or safety.

d. The waiver cannot be granted due to conditions created by the applicant. If the applicant can comply with the requirements of the Ordinance and Stormwater Management Plan through reducing the size of a project, the hardship is self imposed, and therefore the Board lacks jurisdiction to grant any waiver under this section.

e. The applicant must propose a suitable mitigation method through the submission of a mitigation plan which will conform as closely as possible to the design and performance standards of this ordinance, through structural or non-structural stormwater management measures, governing stormwater quality, quantity, and ground water recharge. approval of a waiver or exemption from any one of the three stormwater design standard criteria which include groundwater recharge, water quality, and water quantity provides no guarantee that, if requested, an exemption or waiver will be granted for either or both of the remaining criteria.

f. Supporting evidence for an exemption or waiver shall be prepared in the form of a "stormwater management report" which will be signed and sealed by a New Jersey licensed professional engineer. The report shall include at a minimum:

(1) Detailed hydrologic and hydraulic calculations identifying the sizing criteria for

each BMP and the stormwater collection system based upon the anticipated peak flow and/or volume.

(2) A map of the planned project showing existing conditions with drainage boundaries and land features, including delineated wetlands, proposed improvements, including all BMPs, grading, utilities, impervious features, and landscaping.

(3) Construction details for each BMP with appropriate contact information.

B. Mitigation Criteria.

The mitigation requirements listed below offer a hierarchy of options that are intended to offset the effect on groundwater recharge, stormwater quantity control, and/or stormwater quality control to an equal or greater extent than was created by the granting of a waiver or exemption from the stormwater management requirements.

The mitigation criteria are listed below in order of preference:

1. Identify, design, and implement a compensating measure to mitigate impacts- The preferred option is to identify and develop a compensating mitigation project in the same drainage area as the proposed development. In these cases, the applicant will address the same issue within the design and performance standards for which the variance or exemption is being sought, and demonstrate that the proposed mitigating measures provide equal or greater compensation to offset the non-complying aspect of the stormwater management system on site. The developer must also ensure the long-term maintenance of the project as outlined in Chapters 8 and 9 of the NJDEP Stormwater BMP Manual. If the Township agrees to control a new stormwater management facility, arrangement in the form of an escrow account will be made to stipulate the payment amount, schedule, and long term responsibilities of the facility to ensure that it functions to capacity.

2. Complete a project identified by the municipality as equivalent to the environmental impact created by the exemption or variance- If a suitable site cannot be located in the same drainage area as the proposed development, as discussed in Option 1, the mitigation project may provide measures that are not directly

equivalent to the impacts for which the variance or exemption is being sought, but that addresses the same issue to an equal or greater extent. For example if a variance is given because the 80% TSS requirement has not been met, the selected project may address water quality impacts that increase the siltation of a waterbody within the applicable HUC 14 subwatershed.

If these criteria cannot be met on-site, the Township has identified the retrofitting of existing basins as the primary mode for mitigation measures to follow. Through clearing sediment, expanding capacity, or bringing the basin into compliance with water quality standards, mitigation opportunities have the potential to significantly improve stormwater management issues that face Marlboro Township.

As many of the developments in Marlboro were constructed with curb and gutter drainage, stormwater is often funneled and released directly into an adjoining waterbody. As these methods are contrary to the stormwater management BMP's outlined in the NJDEP's BMP Manual and endorsed through the adoption of the State's new stormwater regulations, the retrofitting of these basins can dramatically improve the Township's existing stormwater management infrastructure. Mitigation projects can utilize a number of BMP's to offset the stormwater management of a project that is unable to comply with the new design standards. However, these BMP's, which may include sand filters, vegetative filters, or the incorporation of a manufactured treatment device, among other possibilities, will be engineered and applied on a site-by-site basis. In general, the engineering necessary to determine the mitigative measure that is most suited for a particular basin is the responsibility of the applicant, and must be determined and submitted by the applicant along with the particular projects site plan.

Marlboro has identified locations within the Deep Run watershed where BMP's can be utilized to improve stormwater management and reduce flooding. These locations, which have been identified by catchment area, offer developers specific options such as improving culverts, or upgrading infrastructure to use as mitigative alternatives. Applicants that are seeking waivers for development proposals located within the Deep Run watershed are strongly encouraged to reference the ten

Subwatershed Impact Assessment and Implementation Project Summary Tables that are included within the, Identification And Evaluation of Impairments Within the Deep Run Watershed Report. Copies of the aforementioned report are available at the Township Clerk's office.

3. Provide funding for municipal projects that would address existing stormwater impacts- The third and least preferable stormwater mitigation option is for the applicant to provide funding or partial funding for an environmental enhancement project that has been identified in the Municipal Stormwater Management Plan, or towards the development of a Regional Stormwater Management Plan. The contributed funds must be equal or greater than the cost to implement the required on-site stormwater measure for which relief is requested including the cost of land, easements, engineering design, and long-term maintenance. However, with this option Marlboro Township, not the applicant is ultimately responsible for the design, property acquisition, construction, construction management, maintenance (short term and long term) and follow-up study, unless that project and its prospective costs have been outlined within this Mitigation Plan.

An applicant may also propose a mitigation project on a site that has not been identified in this mitigation plan. However, in each circumstance the selection of a mitigation project must incorporate the following requirements:

- a. The project must be within the same area that would contribute to the receptor impacted by that project. If there is no specific sensitive receptor impacted, then the location of the mitigation project may be located anywhere within the municipality, preferably at a location that would provide the greatest benefit.
- b. Legal authorization must be obtained to construct the project at the location selected. This includes the maintenance and any access needs for the project throughout its operation.
- c. The mitigation project should be located close to the original development project. If possible, the mitigation project should be located at a similar distance from the identified sensitive receptor. This distance should not be based on actual location, but on a similar hydraulic distance to the sensitive receptor. For example, if a project for which a

waiver is obtained discharges to a tributary, but the closest location discharges to the main branch of a waterway, it may be more beneficial to identify a location discharging to the same tributary.

d. It is preferable to have one location that addresses any and all of the performance standards waived, rather than one location for each performance standard.

e. The project location must demonstrate no adverse impacts to other properties.

f. For projects addressing the groundwater recharge performance standard, a mitigation project site upstream of the location of the actual project site is preferable to a downstream location.

g. Mitigation projects that address stormwater runoff quantity can choose to provide storage for proposed increases in runoff volume, as opposed to a direct peak flow reduction.

h. Mitigation projects that address stormwater runoff quality can choose to address another pollutant other than TSS, which has been demonstrated to be of particular concern, such as streams that have been listed as an impaired waterbody for other pollutants. However, care must be taken to ensure that waivers that are granted for the TSS requirements do not result in the impairment of an existing unimpaired area.

#### C. Requirements for Mitigation Projects

1. Whether the applicant is proposing the mitigation project, or Marlboro has identified the project within this Mitigation Plan, the following requirements for mitigation must be included in the project submission.

**a.** Impact from noncompliance- The applicant must provide a table to show the required values, and the values provided in the project, and include an alternatives analysis that demonstrates that on-site compliance was maximized to the greatest extent practicable.

**b.** Narrative and Supporting Information Regarding the Need for the Waiver- The waiver cannot be granted for a condition that was created by the applicant. If the applicant can provide compliance with the stormwater rules through a reduction in the scope of

the project, the applicant has created the condition and a waiver cannot be issued. The applicant must provide a discussion and supporting information of the site conditions that would not allow the construction of a stormwater management facility to provide compliance with these requirements, and/or if the denial of the application would impose an extraordinary hardship on the applicant brought about by circumstances peculiar to the subject property. The site conditions to be considered are soil type, the presence of karst geology, acid soils, a high groundwater table, unique conditions that would create an unsafe design, as well as conditions that may provide a detrimental impact to public health, welfare, and safety.

**c.** Sensitive Receptor- Identify the sensitive receptor related to the performance standard for which a waiver is sought. Demonstrate that the mitigation site contributes to the same sensitive receptor.

**d.** Design of the Mitigation Project- Provide the design details of the mitigation project. This includes, but is not limited to, drawings, calculations, and other information needed to evaluate the mitigation project.

**e.** Responsible Party- The mitigation project submission must list the party or parties responsible for the construction or maintenance of the mitigation project. Documentation must be provided to demonstrate that the responsible party is aware of, has authority to perform, and accepts the responsibility for the construction and the maintenance of the mitigation project. Under no circumstances shall the responsible party be an individual single-family homeowner.

**f.** Maintenance- The applicant must include a maintenance plan that addresses the maintenance criteria at N.J.A.C. 7:8-5 as part of a mitigation plan. In addition, if the maintenance responsibility is being transferred to Marlboro Township, or another entity, the entity responsible for the cost of the maintenance must be identified. Marlboro provides applicants with the option of conveying the

mitigation project to the Township, provided that the applicant funds the cost of maintenance of the facility in perpetuity.

**g.** Permits- The applicant is solely responsible to obtain any and all necessary local, State, or other applicable permits for the identified mitigation project or measure. The applicable permits must be obtained prior to the municipal approval of the project for which the mitigation is being sought.

**h.** Construction- The applicant must demonstrate that the construction of the mitigation project coincides with the construction of the proposed project. A certificate of occupancy or final approval by the municipality for the application permit cannot be issued until the mitigation project or measure receives final approval. Any mitigation projects proposed by the municipality to offset the stormwater impacts of the Township's own projects must be completed within six months of the completion of the municipal project, in order to remain in compliance with Marlboro's NJPDES General Permit.

2. In all instances the Board having jurisdiction over the application shall have the power to impose additional conditions as may be appropriate under the circumstances of the application. The Board shall make specific findings of fact and conclusions consistent with Section 150 showing the inability or impracticality of strict compliance with the Ordinance and Stormwater Management Plan and (2) justifying the approval of the applicant's mitigation plan, in order to satisfy the reporting requirements of the municipality's NJPDES permit and other applicable state law requiring the submission of reports to any state or county review agency. The Board shall also have the power to require mitigation as to applications, which have received waivers from the New Jersey Department of Environmental Protection.

3. The Board having jurisdiction over an individual application may determine that, due to the size of the project necessary to mitigate for the waiver, it is not practical to require a mitigation project."

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage, publication and approval by the county review agency in accordance with applicable law.

The following Res. #2006-259/Ord. #2006-22 (Amending Chapter 84 - Soil Removal) was introduced by reference, offered by Council President Morelli, seconded by Councilwoman Tragni and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-259

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2006-22

AN ORDINANCE AMENDING AND SUPPLEMENTING SECTION 84-134  
"SOIL REMOVAL AND REDISTRIBUTION" OF ARTICLE VIII  
"SUBDIVISIONS: DESIGN AND PERFORMANCE STANDARDS" OF  
CHAPTER 84 "LAND USE DEVELOPMENT AND REGULATIONS"  
OF THE CODE OF THE TOWNSHIP OF MARLBORO

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on August 10, 2006 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2006-22

AN ORDINANCE AMENDING AND SUPPLEMENTING SECTION 84-134  
"SOIL REMOVAL AND REDISTRIBUTION" OF ARTICLE VIII  
"SUBDIVISIONS: DESIGN AND PERFORMANCE STANDARDS" OF

CHAPTER 84 "LAND USE DEVELOPMENT AND REGULATIONS"  
OF THE CODE OF THE TOWNSHIP OF MARLBORO

WHEREAS, the Mayor and the Township Council find that the unregulated and uncontrolled moving of soil to and from lands within the Township has the potential to result in conditions detrimental to the health, safety and general welfare of the Township and its residents; and

WHEREAS, such unregulated and uncontrolled movement of soil to and from lands located within the Township has created in the past and will create in the future one or more of the following conditions: soil erosion by water and wind; inadequate and improper surface water drainage; decrease in soil fertility; siltation of streams; removal of lateral support abutting streets, lands and premises; creation of excessive amounts of dust and mosquito breeding places; deposit on Township streets of large quantities of dust, mud or dirt; creation of dangerous depressions or pits; deterioration of property values; the rendering of lands unfit or unsuitable for their most appropriate uses; and the creation of other conditions hampering and deterring the coordinated and adjusted and harmonious development of the Township; and

WHEREAS, in order to reduce the risk of such conditions occurring in the future, the Mayor and the Township Council now desire to amend Section 84-134 "Soil Removal and Redistribution" of the Code of the Township of Marlboro to impose certain requirements upon the movement of soil to and from lands located within the Township.

NOW, THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey that the title of Section 84-134 "Soil Removal and Redistribution", Article VIII "Subdivisions: Design and Performance Standards", Chapter 84 "Land Use Development and Regulations" of the Code of the Township of Marlboro be and hereby is changed to "Soil Removal/Filling" and that such Section 84-134 shall be amended to read in its entirety as follows:

"§ 84-134. Soil Removal/Filling

A. Findings/Purpose.

The Mayor and the Township Council find that the unregulated and uncontrolled moving of soil to and from lands within the Township has the potential to result in conditions detrimental to the health, safety and general welfare of the Township and its residents; and that such unregulated and uncontrolled movement of soil to and from

lands located within the Township has created in the past and will create in the future one or more of the following conditions: soil erosion by water and wind; inadequate and improper surface water drainage; decrease in soil fertility; siltation of streams; removal of lateral support abutting streets, lands and premises; creation of excessive amounts of dust and mosquito breeding places; deposit on Township streets of large quantities of dust, mud or dirt; creation of dangerous depressions or pits; deterioration of property values; the rendering of lands unfit or unsuitable for their most appropriate uses; and the creation of other conditions hampering and deterring the coordinated and adjusted and harmonious development of the Township.

B. Definitions.

For the purposes of this section, except as the context may otherwise require, the words used in this section shall mean and include the following:

APPLICANT - The owner or contract purchaser of land upon which earthwork activities are to take place.

CLEAN FILL - Clean fill shall be constructed of soil or rock materials or a combination of these materials meeting the following gradation. These materials shall be free from stumps, roots, weeds, sod, rubbish, garbage, and any other material that may decay. Clean fill shall also be free of any chemical or physical contamination in accordance with NJDEP guidelines.

<u>Sieve Size</u>	<u>Percentage By Weight Passing</u>
2 inch	100
¾ inch	70-100
No. 4	30-90
No. 50	10-35
No. 200	0-12

EXCAVATOR - Any person engaged in the moving, removal or excavation of soil or topsoil from, in or upon any land in the Township.

MOVE - To dig, excavate, remove, deposit, place, fill, grade, regrade, level or otherwise alter or change the location or contour.

PERMIT - A soil removal or fill permit issued under the terms of this section.

PREMISES - One or more contiguous parcels of land in single ownership. Parcels shall not be deemed to be contiguous if separated by a road, railroad, right-of-way, brook, stream or other natural division.

SOIL - Any earth, sand, clay, loam, gravel, humus, rock or dirt, and mixtures of any of them.

TOPSOIL - Soil that, in its natural state, constitutes the top layer of earth and is composed of 2.75% or more, by weight, of organic matter, and has the ability to readily support vegetation. Topsoil shall not contain stones, lumps, roots, or similar objects larger than 1/2 inch in any dimension and shall have not less than a 5.8 pH value. The gradation of the topsoil shall be within the following, using the Bouyoucos Hydrometer Analysis conforming to AASHTO T 88:

1. Not more than 20 percent of the material submitted from an off-site sample shall be retained on a No. 10 sieve.

2.	<u>Percent</u>
Sand (80 mils to 2 mils)	40 - 80
Silt (2 mils to 0.2 mils)	0 - 30
Clay (0.2 mils and smaller)	15 - 30

Material outside these ranges is not suitable for use as topsoil.

Unacceptable Topsoil Sources. Material stripped from the following sources shall not be considered suitable for use as topsoil:

1. Chemically or physically contaminated soils.
2. Wet excavation.

C. Application requirements.

Prior to the digging, excavation, disturbance, or transportation of any soil on any premises in the Township for use other than on the premises from which it is being taken, or prior to the filling of any property or properties within the Township, an application shall be made by the owner or authorized agent to the office of the Township Engineer for a soil removal or fill permit on the

officially designated form. This requirement to obtain a permit applies to all construction including all buildings, roadways, driveways, retaining walls, all other construction which requires soil removal or filling with soil, and for restoration and restabilization of all areas of any site in which grading, soil removal or adjacent construction activity has taken place. All properties filled shall be filled with clean fill or topsoil as defined in this Section.

The application shall be submitted to the Township as follows:

1. If the soil removal or filling is necessary for the development of a project which has been granted approval by the Planning Board or Board of Adjustment, an application shall be made to the Township Engineer.
2. If the soil removal or filling is necessary for the development of a project which has not been granted approval by the Planning Board or Board of Adjustment, then an application shall be made to the Planning Board.
3. The requirements of this section shall not apply when both of the following circumstances are present:
  - a. When soil removal results from excavation involving one single-family house, basement or accessory structure (e.g. pool or patio); and,
  - b. When the total quantity of soil removed from or added to any tract is less than 100 cubic yards.

D. Information required for application.

1. The application shall be filed on a form supplied by the Township Engineer and shall provide the following information:
  - a. Owner, applicant and contractor name, address and telephone numbers.
  - b. The name, address and telephone number of the person(s) responsible for the work of removing the soil or filling.
  - c. Address and block/lot designations of all property(ies) from which soil removal is to take place and/or at which filling is to take place.
  - d. Narrative statement concerning the purpose of application.
  - e. Name of project(s), if any.

- f. The destination of the soil to be removed from the site. If the destination is not listed in subsection 1.c above, and the destination is within the Township, the street address, tax map block/lot designation, and other information which identifies the location is required.
  - g. A detailed description of the entire route within the Township to and from the proposed site(s) to be used in transporting soil removed or soil used for fill. Where the approval from the reviewing office expressly designates a route, no deviations from this route will be permitted unless authorized by the Township Engineer or Planning Board.
  - h. An estimate in cubic yards of the quantity of soil to be removed, broken down into two figures-topsoil and total; or an estimate in cubic yards of the quantity of soil to be installed as fill broken down into two figures - topsoil and total.
  - i. All information on the fill material as required by the definition of Clean Fill in this Section. The data shall be submitted and approved by the Township Engineer prior to the start of work. Only material data from a legally certified testing laboratory shall be considered and should include soil borings, gradation, composition, proctor values and any other information required by the Township.
  - j. Start of work date, approximate project duration, and completion date.
  - k. All necessary outside agency permits or authorization required for the project.
  - l. Application fees as specified elsewhere in this Section.
2. For each application for soil removal or filling, a survey or plan signed and sealed by a Professional Engineer licensed to practice in the State of New Jersey is required. Said plan shall contain the following:
- a. The plan shall be drawn to a minimum scale of 1 inch to 100 feet for soil removal, and a scale of 1 inch to 50 feet for filling.
  - b. The dimensions of the property(ies) where the activity is to take place, and the lot and block number of the property and of each lot surrounding the land within 200 feet as shown on the current Tax Map of the Township.

- c. All existing and proposed structures, easements, floodplains, wetlands, stream encroachment areas and other designations on the property which may restrict activities on part of the property, and all elevations of same.
- d. All existing treelines, limit of disturbance lines, and all tree removal and tree replacement information as specified elsewhere in this Chapter.
- e. Areas of disturbance and limits of soil erosion control measures shall to be clearly delineated.
- f. Existing and proposed contours and grades as required by the Township Engineer, and for soil removal, the present grade on a fifty-foot grid layout with contour lines at one-foot levels up to and including twenty acres; or for more than twenty acres, one-hundred-foot grids with contour lines at two-foot levels. Additionally, the grades of all abutting streets and lands around the outer boundaries of the site shall be provided.
- g. The quantity, in cubic yards, of soil to be removed, or fill material to be installed.
- h. The average depth of topsoil as determined by taking borings in the approximate center of each 100-foot grid.
- i. The demonstration of positive drainage flow with grades a minimum of 1.5% and swales to convey runoff, and the areas where runoff is to be discharged (streams, waterbodies, watercourses, natural or artificial).
- j. Proposed slopes and lateral supports at the limits of the area upon completion of the proposed work.
- k. Information on retaining walls as further required by §84-30D(24) and other applicable sections.
- l. Measures for the prevention of soil erosion and sediment control during construction until soil is stabilized. Applicant shall comply with all Freehold Soil Conservation District requirements.
- m. Methods of final soil stabilization and description of ground cover, plantings, vegetation, and landscaping. Residential properties shall receive a minimum of four inches (4") of topsoil on all disturbed areas. Non-residential properties shall receive a minimum of six inches (6") on all disturbed areas.

- n. The applicant shall furnish any other pertinent data the Township Engineer may require after examination of the proposed project, including site inspection. If the soil removal or fill is for the development of an approved subdivision or site plan by the Planning Board or Board of Adjustment, the above-referenced requirements may be met by the submission of the approved construction plans, subject to final determination by the Township Engineer.

E. Application fees, inspection fees and performance guaranties.

1. Application fees.

- a. In the event the application is reviewed in the Township Engineer's office, the application shall be accompanied by the fee indicated on the application form.
- b. In the event the application must be brought to the Planning Board, the application shall be accompanied by a fee, which shall be paid to the Township according to the Planning Board fee schedule.
- c. Renewal application shall be as indicated on the application form.
- d. If a soil removal or fill permit is denied, no refund of fees shall be permitted.

2. Inspection Fund.

There shall be an inspection fund established to cover the cost of inspection and enforcement of the provisions of this Section, based upon the total number of cubic yards to be removed or installed, as determined by the Township Engineer.

3. Performance Bond

- a. Posting amount. No soil removal or fill permit will be issued until the applicant has posted with the Township a performance bond to cover damage to Township roadways in a form and with a surety that is acceptable to the Township and in an amount as follows:

The bond amount shall be \$15,000.00 for up to the first mile of the haul route along Township roads which is along the frontage of all properties from which soil removal and/or filling is to take place; \$25,000.00 per mile or part thereof after the first mile of haul route for projects which have more than one mile of frontage

along Township roads of all properties from which soil removal and/or filling is to take place.

- b. The performance bond will be conditioned upon the full and faithful performance by the applicant and principal, within the time specified in the application, of all the proposed work in accordance with the provisions of this Section and of the soil removal or fill permit issued pursuant thereto.
- c. The condition of the performance guaranty shall be that the permittee has properly completed its soil removal and/or fill work and that pavement stability, maintenance, cleaning, traffic direction, when required, and utility protection in conjunction with the removal or fill activity at the site and haul route has been maintained. The guaranty shall be posted in the amounts specified in subsection E(3)(a) above for the duration of the haul cycle for removal of the soil or filling, whichever is longer. Upon completion or abandonment of the work, the Township Engineer shall inspect the site and haul route and render a written report to the Township regarding the performance guaranty status. Any reduction or release of the performance guaranty shall be authorized by resolution of the Township Council.
- d. Renewal.

If the applicant shall fail to fill or remove the amount of soil estimated in the original application within the period of one (1) year, he shall be required to submit an application for renewal and pay the fees applicable to the renewal application prior to the approval of same application for renewal. Renewal is also contingent upon renewal of the bond as required in this subsection.

F. Regulations.

- 1. To ensure conformity to the requirements of this section, inspections shall be made by the Township Engineer or his authorized or qualified agent upon the lands on which the soil-moving or filling operations are being conducted for the entire duration of the soil moving or filling operations.
- 2. Copies of the soil removal or fill permit shall be posted on all premises affected thereby, and any person or entity engaged in the transportation of soil to or from any site in Marlboro Township shall produce a copy of said permit upon request from any officer, agent or employee of the Township

authorized to enforce this Section. Failure to produce this documentation on request shall constitute adequate cause for issuance of a stop-work order.

3. Sectioning of land under permit. The applicant shall be required to section the property which is the subject of the permit into areas of not more than five acres for soil removal, and not more than ten acres for filling, and to schedule the work of soil removal or filling so that the operation conducted in one section is completed and at final grade before work is commenced in any other section of the premises.

4. Removal of a bank.

Complete removal of a bank. If the application for a soil removal permit involves the complete removal of a bank which extends above the elevation of the surrounding lands or above the elevation of a public road or street adjacent to the land where the removal project is to take place, the moving or removal shall be so conducted as to leave the final grade of the land or lot from which the bank is to be removed at a grade that will not create a hazardous condition for the surrounding lands or a public road or street. Wherever practical, the final grade shall not be lower than the grade of the surrounding lands or of a public road or street, and the final grade shall be established and maintained at a minimum of 1- $\frac{1}{2}$ % to ensure proper drainage. In addition, no slope shall exceed the grade of 33%.

5. In the course of filling with soil, placement and compaction with fill materials shall be accordance with current NJDOT Standard Specifications. Fill shall not be placed over topsoil, but areas of embankment shall be stripped prior to fill placement. Fill materials shall be placed in layers not more than 12 inches thick, loose measurement; and compacted as specified below. Completed in place embankment shall be compacted to a density of not less than 95 percent of the established reference maximum density. A minimum of two field density tests shall be taken according to AASHTO T 191, AASHTO T 205, or AASHTO T 238-Method B and AASHTO 239 on each compacted layer or as directed by the Township Engineer. Only one of the referenced methods shall be used on the project.

6. Topsoil.

- a. Replacement of topsoil. Whenever any owner, developer or excavator removes or fills property in the Township, provision shall be made for the replacement of topsoil within the boundary lines of the property. Except as hereinafter provided, all topsoil shall be uniformly replaced over the entire area or surface of the land, less newly developed areas on or before the completion date set forth in the soil removal or fill permit. The final grade of the replaced topsoil shall conform to the proposed final grades shown on the topographical map. Topsoil shall be compacted and stabilized in accordance with appropriate Freehold Soil Conservation District provisions.
  - b. In the event that the topsoil so stored does not meet the definition of "topsoil" as defined herein, then the owner or developer shall bring to site topsoil that does conform to the definition. The replaced soil shall meet all other requirements of this Section.
  - c. Applicant shall submit additional testing and sampling as directed by the Township Engineer to ensure compliance to these provisions.
7. In the course of filling or soil removal operations, the owner or person in charge shall conduct the operations so that there will be no interruption of natural drainage; and that the area will be properly leveled off, cleared of debris and graded to conform to the contour lines and grades as approved by the Township Engineer. The conduct of the operation shall be under the observation and control of the Township Engineer, who will make periodic inspections to determine that there is no deviation from the information and requirements of the application as approved.
8. Every fill and soil removal project shall be conducted and completed in a manner which will eliminate any conditions hazardous to the public who may have access to the property or the health, safety or welfare of the Township. No boulders, tree stumps and other debris shall be buried with fill, but shall be legally removed from the site.
9. No fill or excavating operation is to be conducted except between the hours of 8:00 a.m. and 5:00 p.m. on weekdays (Monday to Friday) only.
10. No person shall permit the accumulation of dirt, rubble or debris on any roadway within the Township as a result of

soil removal, fill or trucking of soil to/from any site in the Township.

11. The excavating or filling operation shall be conducted so that the noise from trucks or equipment will not be a source of annoyance or discomfort to any residents of the Township. Applicant shall comply with provisions of § 84-34(4).
12. Every truckload of material shall be properly trimmed and shall have no material protrude more than 12 inches above the sides or rear of the truck at the peak or highest point of each load. Every hauler shall be responsible to ensure that (sand, dirt or dust does not blow from their truck within the Township). All loads shall be covered.
13. A minimum of 48-hours notice is required to the Township Engineer's office shall be required for all work under this Section. Failure of proper notice may result in rework, non-acceptance of the work and/or penalties imposed as outlined in this Section.
14. Transportation of soil. A person who transports over the streets, roads or highways in the Township soil removed from or transported to land or premises pursuant to a soil removal or fill permit shall daily sweep, pick up and remove or cause to be swept, picked up and removed all dust, dirt and mud from roads, streets or highways and shall apply or cause to be applied to the roads, streets or highways a dust preventive whenever deemed necessary by the Township Engineer. If a permit holder neglects or refuses to sweep, pick up and remove any dust, dirt and mud or to apply a dust preventive when required, the Township Engineer is authorized to suspend the permit for a period of not less than three (3) days or may revoke the permit after notification, in writing, by an authorized officer, agent or employee of the Township to the holder of the permit. If revoked, no soil removal permit or fill permit shall again be issued unless application is made as required by subsection C.

G. Enforcement.

1. Engineer.

- a. The Township Engineer shall enforce the provisions of this Section including but not limited to those violations arising out of the failure of any person or entity to apply for and obtain a soil removal or disturbance permit. He shall, from time to time, upon

his own initiative, or whenever directed by the Township, inspect the premises for which permits have been granted to ensure compliance with the terms of the permit and of this Section. He shall report all violations to the Township and take any action deemed necessary for proper enforcement.

- b. In addition to the above, any law enforcement or code enforcement officer, agent or employee of the Township shall have the right to enter any land where soil removal operations are being conducted in order to examine and inspect the land and the operations and enforce the provisions of this Section.

H. Revocation of permit, violations and penalties.

After notice and an opportunity to be heard before the Township Engineer, the permit of any person may be revoked or suspended for such period as the Township Engineer may determine for any violation of the terms hereof or the terms and conditions of any permit granted hereunder. In addition to action on the bond required or the revocation provided for herein, any person who violates this Section or any director or officer of a corporation who participates in a violation of this section shall, upon conviction thereof, be subject to a maximum fine of \$2,500.00, or imprisonment for a period not to exceed 90 days, or both. Each and every day that such violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense."

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

The following Res. #2006-195 (Tabled 5/18m 6/1, 6/15 - Authorizing Agreement - Bluh & Batelli) was introduced by reference, offered by Council President Morelli, seconded by

Council Vice President Cantor and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-195

RESOLUTION AUTHORIZING THE EXECUTION OF A SETTLEMENT AGREEMENT  
BETWEEN THE TOWNSHIP OF MARLBORO AND  
ALFRED BLUH AND JOSEPH BATELLI

WHEREAS, pursuant to Resolution #2004-225, the Township Council of the Township of Marlboro approved the July 2004 Housing Plan Element and Fair Share Plan (collectively referred to as the "Affordable Housing Plan") for the Township of Marlboro; and

WHEREAS, the Township of Marlboro then petitioned the Council on Affordable Housing ("COAH") for substantive certification and requested that COAH review and certify the Affordable Housing Plan; and

WHEREAS, in accordance with N.J.A.C. 5:91-4.1, Alfred Bluh and Joseph Batelli ("Bluh and Batelli") filed an objection with COAH to the Affordable Housing Plan; and

WHEREAS, Bluh and Batelli's objection contended that they are the owner of Block 150, Lots 2, 3, 4 and 9 and Block 148, Lot 31 and Block 149, Lot 16 (collectively, the "Property") in the Township of Marlboro and that the Property was previously included in the Township's Affordable Housing Plan and, at that time, they were slated to construct 210 market rate units and 68 affordable housing units, but in 1998, the Township removed Bluh and Batelli from its affordable housing plan; and

WHEREAS, as a result of the Township's removal of Bluh and Batelli from its Affordable Housing Plan, Bluh and Batelli also initiated litigation against the Township in the Superior Court of New Jersey-Law Division; and

WHEREAS, in response to Bluh and Batelli's objection with COAH, the Township of Marlboro and Bluh and Batelli engaged in mediation and good faith negotiations as required by N.J.A.C. 5:91-7.1, et seq.; and

WHEREAS, as a result of the mediation process, Bluh and Batelli and the Township reached a proposed settlement which will allow for Bluh and Batelli to construct on the Property, 200 market rate age-restricted units and 50 affordable family rental units and Bluh and

Batelli further agreed to fund 65 RCAs \$35,000 per unit approved by COAH; and

WHEREAS, on September 26, 2005, the Township Council approved Resolution #2005-321 which authorized the Township Attorney to attempt to finalize a Settlement Agreement with Bluh and Batelli in conformance with the general terms and conditions outlined herein; and

WHEREAS, on December 20, 2005, the Township filed a Petition for Substantive Certification with COAH which included the Bluh and Batelli Property in the Township's Third Round Affordable Housing Plan, and which provided for Bluh and Batelli to construct on the Property, 200 market rate age-restricted units and 50 affordable family rental units so long as Bluh and Batelli funded 65 RCAs at \$35,000 per unit; and

WHEREAS, the Township engaged in substantial negotiations with Bluh and Batelli since the approval of Resolution #2005-321 and as a result of these negotiations, the Township and Bluh and Batelli have finalized a Settlement Agreement, which is attached hereto and made a part hereof; and

WHEREAS, the Mayor and Township Council find that it is in the best interest of the Township of Marlboro to enter into an Agreement with Bluh and Batelli to promote the public policy of providing affordable housing within the municipality's borders in furtherance of the Township's constitutional obligation and to obtain substantive certification from COAH so as to prevent builder's remedy litigations against the Township.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro that the attached Settlement Agreement with Bluh and Batelli is hereby approved and the Mayor is authorized to execute the Settlement Agreement in a form substantially similar to the Settlement Agreement attached hereto.

BE IT FURTHER RESOLVED that the Township Clerk is hereby authorized and directed to send copies of this resolution to the following:

1. Council on Affordable Housing
2. Matthew Cavaliere, Esq.
3. Jeffrey Kantowitz, Esq.
3. Business Administrator
4. Gluck Walrath, LLP.

The following Res. #2006-260 (Authorizing Grant HDSRF (Remediation - DiMeo Property) was introduced by reference, offered by Council President Morelli, seconded by Council Vice President Cantor and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-260

AUTHORIZE THE TOWNSHIP TO SUBMIT TO THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION (NJDEP) AN APPLICATION TO THE HAZARDOUS DISCHARGE SITE REMEDIATION FUND (HDSRF) FOR FUNDS TO PERFORM ENVIRONMENTAL ASSESSMENTS AND INVESTIGATIONS AT THE FORMER DIMEO PROPERTY SITE

WHEREAS, the Hazardous Discharge Site Remediation Fund (HDSRF) was established to provide financial assistance to municipalities, businesses and homeowners for the investigation and/or remediation of suspected or known discharge of a hazardous substance; and

WHEREAS, municipalities performing a voluntary remediation, conducting remediation using an innovative technology, conducting a remediation resulting in a limited or unrestricted use determination, or meeting the innocent party criteria may apply for available grant funding from HDSRF; and

WHEREAS, HDSRF municipal grants are available to conduct environmental assessments and investigations for real property owned by a municipality; and

WHEREAS, the Township of Marlboro owns the Former Dimeo and intends to redevelop a portion of it for open space/outdoor recreation purposes and preserve a portion of it via the Farmland Preservation Program administered jointly by the State of New Jersey and the County of Monmouth;

NOW, THEREFORE, BE IT RESOLVED, this 13<sup>th</sup> day of July, 2006 by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the Township of Marlboro hereby submit an HDSRF application to the NJDEP for funds in the amount of \$452,140.00 to conduct environmental assessments and investigations at the Former Dimeo Property site.

The following Res. #2006-262 (Authorizing Contract - EAP Police Dept. - Dr. Mark White) was introduced by reference, offered by

Councilman Pernice, seconded by Councilwoman Tragni and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-262

A RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES CONTRACT BETWEEN MARK WHITE, Ph.D., P.A., LICENSED PSYCHOLOGIST AND THE TOWNSHIP OF MARLBORO FOR THE PROVISION OF PSYCHOLOGICAL REFERRAL SERVICES THROUGH AN EMPLOYEE ASSISTANCE PROGRAM FOR THE TOWNSHIP OF MARLBORO POLICE DEPARTMENT

WHEREAS, the Township of Marlboro is in need of professional services in connection with the provision of psychological referral services through an employee assistance program for the Township of Marlboro Police Department; and

WHEREAS, the Township has requested proposals through a non-fair and open process pursuant to the provisions of N.J.S.A. 19:44A-20.4; and

WHEREAS, Mark White, Ph.D., P.A. has submitted the attached proposal dated June 15, 2006 (the "Proposal") to the Township of Marlboro to provide the aforementioned professional services for a contractual retainer of \$3,500.00 and a fee-for-service charge of \$125.00 per hour for Supervisor-Imposed mandated referrals; and

WHEREAS, Mark White, Ph.D., P.A. has completed and submitted a Business Entity Disclosure Certification which certifies that Mark White, Ph.D., P.A. has not made any reportable contributions to a political or candidate committee in the Township of Marlboro in the previous one year, and that the contract will prohibit Mark White, Ph.D., P.A. from making any reportable contributions through the term of the contract; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the municipality to hire Mark White, Ph.D., P.A. to provide the required professional services in accordance with the Proposal; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution

authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor is hereby authorized to execute a contract, in a form legally acceptable to the Township Attorney, between Mark White, Ph.D., P.A. and the Township of Marlboro to provide the required professional services in accordance with the Proposal; and

BE IT FURTHER RESOLVED, that the Certified Financial Officer has executed a Certification of Funds for the contract, which is attached hereto, and that sufficient funds are available for said contact from Account Number 6-01- -106-286.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Mark White, Ph.D., P.A.
- b. Township Police Department
- c. Township Administrator
- d. Township Chief Financial Officer
- e. Gluck Walrath, LLP

The following Res. #2006-263 (Authorizing Contract - Tax Maps & GIS Development - Civil Solutions) was introduced by reference, offered by Councilwoman Tragni, seconded by Council President Morelli and passed on a roll call vote of 4 - 1 in favor with Council Vice President Cantor voting no.

RESOLUTION # 2006-263

A RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL  
SERVICES CONTRACT BETWEEN  
CIVIL SOLUTIONS AND THE TOWNSHIP OF MARLBORO FOR THE  
PROVISION OF DIGITAL TAX MAPS AND GIS DATA DEVELOPMENT

WHEREAS, the Township of Marlboro is in need of professional services in connection with the provision of digital tax maps and GIS data development; and

WHEREAS, the Township has requested proposals through a non-fair and open process pursuant to the provisions of N.J.S.A. 19:44A-20.4; and

WHEREAS, Civil Solutions has submitted the attached proposal dated November 8, 2005 (the "Proposal") to the Township of Marlboro to provide the aforementioned professional services for an amount not to exceed \$232,330.00; and

WHEREAS, the Chief Financial Officer has certified in writing that the value of this proposal will exceed \$17,500.00; and

WHEREAS, Civil Solutions has completed and submitted a Business Entity Disclosure Certification which certifies that Civil Solutions has not made any reportable contributions to a political or candidate committee in the Township of Marlboro in the previous one year, and that the contract will prohibit Civil Solutions from making any reportable contributions through the term of the contract; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the municipality to hire Civil Solutions to provide the required professional services in accordance with the Proposal; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor is hereby authorized to execute a contract, in a form legally acceptable to the Township Attorney, between Civil Solutions and the Township of Marlboro to provide the required professional services in accordance with the Proposal; and

BE IT FURTHER RESOLVED, that the Certified Financial Officer has executed a Certification of Funds for the contract, which is

attached hereto, and that sufficient funds are available for said contact from Account Number 6-01-55-901 295.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Civil Solutions, Hammonton, NJ
- b. Township Tax Assessor
- c. Township Administrator
- d. Township Chief Financial Officer
- e. Gluck Walrath, LLP

The following Res. #2006-264 (Authorizing Contracts - Birdsall - Environmental JIF Audit, Pleasant Valley/Conover Road design, Revision Stormwater Plan, Prepare and file HDSRF Grant for DiMeo property) was introduced by reference, offered by Council President Morelli, seconded by Councilwoman Tragni and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-264

A RESOLUTION AUTHORIZING THE EXECUTION OF PROFESSIONAL SERVICES CONTRACTS BETWEEN BIRDSALL ENGINEERING, INC. AND THE TOWNSHIP OF MARLBORO FOR VARIOUS ENGINEERING SERVICES

WHEREAS, the Township of Marlboro is in need of professional engineering services for certain projects; and

WHEREAS, the Township has requested proposals through a non-fair and open process pursuant to the provisions of N.J.S.A. 19:44A-20.4; and

WHEREAS, Birdsall Engineering, Inc. has submitted the following proposals (the "Proposals") to the Township of Marlboro to provide the aforementioned professional engineering services:

- 1) Compliance with the 2005 Environmental JIF Audit for an amount not to exceed \$7,000.00;
- 2) Pleasant Valley/Conover Road Intersection Design for an amount not to exceed \$76,600;
- 3) Stormwater Plan and Ordinance revisions for an amount not to exceed \$7,500.00; and

- 4) Authorizing HDSRF Grant Application for Remediation of the DiMeo Property for an amount not to exceed \$2,500 to file application and not to exceed \$1,000 for State application fee.

WHEREAS, the Chief Financial Officer has certified in writing that certain of these proposals will exceed \$17,500; and

WHEREAS, Birdsall Engineering, Inc. has completed and submitted a Business Entity Disclosure Certification which certifies that Birdsall Engineering, Inc. has not made any reportable contributions to a political or candidate committee in the Township of Marlboro in the previous one year, and that the contract will prohibit Birdsall Engineering, Inc. from making any reportable contributions through the term of the contract; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the municipality to hire Birdsall Engineering, Inc. to provide the required professional services in accordance with the Proposals; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor is hereby authorized to execute contracts, in a form legally acceptable to the Township Attorney, between Birdsall Engineering, Inc. and the Township of Marlboro to provide the required professional services in accordance with the Proposal; and

BE IT FURTHER RESOLVED, that the Certified Financial Officer has executed a Certification of Funds for the contracts, which is attached hereto, and that sufficient funds are available for said contacts from the following account numbers:

- 1) Environmental JIF Audit - X-04-55-950-902
- 2) Pleasant Valley/Conover/Rd.- 6-04-55-940-270 (\$61,245)

3) Stormwater Plan Revision - X-04-55-959-935 (\$15,355)  
T-16-58-856-806  
4) Authorizing HDSRF Grant - 6-01-060-288 with intent to  
pay from capital bonding ordinance 2002-27 once amended.

BE IT FURTHER RESOLVED, that a certified copy of this  
Resolution shall be provided to each of the following:

- a. Birdsall Engineering, Inc., Eatontown, NJ
- b. Township Administrator
- c. Township Chief Financial Officer
- d. GluckWalrath, LLP

The following Res. #2006-265 (Authorizing Settlement - Twp. Of  
Marlboro vs. S. Calleo) was introduced by reference, offered by  
Councilwoman Tragni, seconded by Council President Morelli  
and passed on a roll call vote of 4 - 0 in favor (Absent:  
Rosenthal).

RESOLUTION # 2006-265

A RESOLUTION AUTHORIZING THE SETTLEMENT OF THE LAWSUIT  
ENTITLED AFFORDABLE HOUSING AGENCY AND RENT CONTROL  
BOARD OF THE TOWNSHIP OF MARLBORO v. SALVATORE CALLEA, ET AL.,  
DOCKET NO. MON-L-1517-05

WHEREAS, in 2005, the Affordable Housing Agency and Rent  
Control Board (the "Board") filed a lawsuit against Salvatore Callea  
(the "Owner"), the owner of an affordable housing unit located at  
779 Banyan Court, alleging improper and unlawful use of the  
affordable housing unit in violation of the affordability controls  
placed upon the unit; and

WHEREAS, the lawsuit is entitled Affordable Housing Agency and  
Rent Control Board of the Township of Marlboro v. Salvatore Callea,  
et al., Docket No. MON-L-1517-05 (the "Lawsuit"); and

WHEREAS, a settlement of the Lawsuit has been recommended by  
the Court whereby, the Owner would pay to the Township \$8,064.00 in  
return for the Township releasing all claims against the Owner which  
could have been brought as part of the Lawsuit; and

WHEREAS, the Township Council now desires to accept the Court's  
recommendation and to authorize the proposed settlement.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth that the Mayor is hereby authorized, upon receipt of \$8,064.00 from the Owner, to execute a Release by the Township in a form substantially similar to the Release attached hereto and to take such other steps as necessary to effectuate the settlement and dismissal of the Lawsuit; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Vincent E. Halleran, Jr., Esq.
- b. Township Administrator
- c. Gluck Walrath, LLP.

The following Res. #2006-266 (Authorize Mayor to sign Contract for Development Easement for Township-owned property B. 159, L.1.01) was introduced by reference, offered by Council President Morelli, seconded by Councilman Pernice and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-266

A RESOLUTION AUTHORIZING THE MAYOR TO SIGN THE CONTRACT FOR SALE OF A DEVELOPMENT EASEMENT BETWEEN THE TOWNSHIP OF MARLBORO AND THE MONMOUTH COUNTY AGRICULTURE DEVELOPMENT BOARD FOR THE TOWNSHIP-OWNED PROPERTY KNOWN AS BLOCK 159, LOT 1.01

WHEREAS, the Township of Marlboro submitted an application to the Monmouth County Agriculture Development Board (the "Board") to sell a development easement for the Township-owned property located in the Township of Marlboro and known as Block 159, Lot 1.01 comprising approximately 45 acres (the "Property"); and

WHEREAS, by Resolution #2005-209, the Township Council approved the sale of the development easement for the Property to the Board and recognized that the purchase price for the development easement would be reduced in accordance with the rate specified within the Board's Procedures Governing the Funding of Easement Purchases policy adopted August 7, 2002; and

WHEREAS, the Township Council now desires to authorize the Mayor to execute the Contract for Sale of Development Easement between the Township of Marlboro and the Board (the "Contract"), which is attached hereto, whereby the Township agrees to sell the

development easement for the Property for a price of \$53,500.00 per acre.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the Mayor be and hereby is authorized to execute the Contract; and

BE IT FURTHER RESOLVED, that three certified copies of this Resolution be sent to the Board office and one copy each to the Township of Marlboro Planning Board, Tax Assessor and Tax Collector.

The following Res. #2006-267 (Award of Consumption License - Brooks Edge Plaza) was introduced by reference, offered by Council President Morelli, seconded by Councilman Pernice and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-267

A RESOLUTION AUTHORIZING THE ISSUANCE OF A PLENARY RETAIL CONSUMPTION LICENSE TO BROOKS EDGE PLAZA, LLC

WHEREAS, in accordance with the provisions of Resolution #2005-250, the Township of Marlboro authorized the acceptance of bids for One(1) Plenary Retail Consumption License; and

WHEREAS, by Resolution #2005-315, said license was awarded to Brooks Edge Plaza, LLC conditioned upon Brooks Edge Plaza, LLC's compliance with the Alcoholic Beverage Control Statutes, N.J.S.A. 33:1-1, *et seq.* and the approval of the New Jersey Division of Alcoholic Beverage Control and the provisions of Resolution #2005-250; and

WHEREAS, the Township has determined that Brooks Edge Plaza, LLC has satisfied all of the aforementioned conditions.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth that the Clerk of the Township of Marlboro is hereby authorized to issue a Plenary Retail Consumption License for the premises identified in the attached "Retail Liquor License Application" submitted by Brooks Edge Plaza, LLC and that such license shall be conditioned upon the licensee complying with the maximum permitted occupancy for the premises as determined pursuant to applicable Township ordinances; and

BE IT FURTHER RESOLVED, that the license issued herewith shall be subject to suspension or revocation for a violation of the aforesaid condition pursuant to N.J.S.A. 33:1-32; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Brooks Edge Plaza, LLC
- b. Township Administrator
- c. Gluck Walrath, LLP.

The following Res. #2006-268 (Award of Contract - Hammer Mill Grinder Rental) was introduced by reference, offered by Councilwoman Tragni, seconded by Council President Morelli and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-268

A RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT  
TO BECKER'S TREE SERVICE, INC. FOR THE RENTAL OF ONE  
HAMMER MILL GRINDER FOR THE TOWNSHIP OF MARLBORO  
DEPARTMENT OF PUBLIC WORKS

WHEREAS, the Township of Marlboro has authorized the acceptance of bids for the rental of one hammer mill grinder for the Township of Marlboro Department of Public Works; and

WHEREAS, two (2) bids were received as follows:

Becker's Tree Services, Inc. of 3306 Shafto Road, Tinton Falls, New Jersey 07753 for a daily rental rate of \$3,800.00 and a weekly rental rate of \$26,600.00; and

Elite Tree Service of 2 Red Fox Run, Manalapan, New Jersey 07726 for a daily rental rate of \$4,000.00 and a weekly rental rate of \$28,000.00; and

WHEREAS, Administration, the Director of Public Works and the Township Attorney have reviewed the bids received and recommend that the contract be awarded to Becker's Tree Service, Inc. as the lowest qualified bidder; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township of Marlboro to award the contract to the lowest qualified bidder, Becker's Tree Service, Inc., for the provision of the aforesaid product.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the contract for the rental of one hammer mill grinder for the Township of Marlboro Department of Public Works be and hereby is awarded to Becker's Tree Service, Inc. and that the Mayor is authorized to execute a contract, in a form legally acceptable to the Township Attorney, between the Township of Marlboro and Becker's Tree Service, Inc. for the rental of said equipment for a daily rate not to exceed \$3,800.00 and a weekly rate not to exceed \$26,600.00 and in accordance with the bid proposal submitted by Becker's Tree Service, Inc. which is on file with the Township; and

BE IT FURTHER RESOLVED that the Chief Financial Officer has executed a Certification of Funds for this contract, which is attached hereto, and that sufficient funds are available for said contract from Account Number 6-01-117-288 (\$15,000) and G-02-41-709-400 (\$11,600); and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Becker's Tree Service, Inc.
- b. Director of Public Works
- c. Township Administrator
- d. Township Chief Financial Officer
- e. Gluck Walrath, LLP.

The following Res. #2006-269 (Implementing National Incident Management System (NIMS) was introduced by reference, offered by Council President Morelli, seconded by Council Vice President Cantor and passed on a roll call vote of 5 - 0 in favor.

#### RESOLUTION # 2006-269

#### RESOLUTION IMPLEMENTING THE NATIONAL INCIDENT MANAGEMENT SYSTEM

WHEREAS, In Homeland Security Directive (HSPD)-5, the President directed the Secretary of the Department of Homeland Security to develop and administer a National Incident Management System (NIMS), and the Governor issued Directive Number 50 which would provide that consistent nationwide approach for federal, state, County and municipal governments to work together more effectively and

efficiently to prevent, prepare for, respond to, and recover from domestic incidents, regardless of cause, size or complexity; and

WHEREAS, the collective input and guidance from all state, local and county homeland security (Emergency Management) partners has been, and will continue to be, vital to the development, effective implementation and utilization of a comprehensive NIMS; and

WHEREAS, it is necessary that all state, county, and municipal emergency management agencies and personnel coordinate their efforts to effectively and efficiently provide the highest levels of incident management; and

WHEREAS, to facilitate the most efficient and effective incident management it is critical that state, county, municipal organizations utilize standardized terminology, standardized organizational structures, uniform personnel qualification standards, uniform standards for planning, training, and exercising, comprehensive resource management, and designated incident facilities during emergencies or disasters; and

WHEREAS, the NIMS standardized procedures for managing personnel, communications, facilities and resources will improve the ability of the municipality to utilize federal funding to enhance local agency readiness, maintain first responder safety, and streamline incident management processes; and

WHEREAS, the Incident command System components of NIMS are already an integral part of various incident management activities throughout the state and county, including all public safety and emergency response organizations training programs; and

NOW, THEREFORE BE IT RESOLVED, Pursuant to the authority vested in this governing body by the Emergency Management Act, N.J.S.A., Appendix A; 9-30 et seq. (Chapter 251, P.L. 1942, as amended by Chapter 438, P.L. 1953, Chapter 405, P.L. 1985 and Chapter 222, P.L. 1989 does hereby mandate and resolve that the National Incident Management System be utilized for all incident management in the Municipality and wherever mutual aid and assistance may be rendered.

BE IT FURTHER RESOLVED, that this is to take effect immediately.

The following Res. #2006-270 (Recycling Tonnage Grant) was introduced by reference, offered by Councilwoman Tragni,

seconded by Council President Morelli and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-270

WHEREAS, the Mandatory Source Separation and Recycling Act, P.L. 1987, c. 102, has established a recycling fund from which tonnage grants may be made to municipalities in order to encourage local source separation and recycling programs; and

WHEREAS, it is the intent and spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and expand existing programs; and

WHEREAS, the New Jersey Department of Environmental Protection is promulgating recycling regulations to implement the Mandatory Source Separation and Recycling Act; and

WHEREAS, the recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including, but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and

WHEREAS, a resolution authorizing this municipality to apply for such tonnage grants will memorialize the commitment of this municipality to recycling and indicate the assent of the Marlboro Township Council to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations; and

WHEREAS, such a resolution should designate the individual authorized to ensure that the application is properly completed and timely filed.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Marlboro that Marlboro Township hereby endorses the submission of a Municipal Recycling Tonnage Grant Application to the New Jersey Department of Environmental Protection and Energy and designates the Recycling Coordinator to ensure that the said Application is properly filed.

BE IT FURTHER RESOLVED that the monies received from the recycling tonnage grant be deposited in a dedicated recycling trust fund to be used solely for the purposes of recycling.

The following Resolutions were introduced by reference, offered by Council Vice President Cantor, seconded by Councilwoman Tragni and passed on a roll call vote of 5 - 0 in favor:  
Res. #2006-271 (Approval of Items of Revenue - Chapter 159 - NJ DOT Robertsville Road Drainage Grant), Res. #2006-272 (Approval of Items of Revenue - Chapter 159 - NJ DOT Robertsville Road Grant) and Res. #2006-273 (Approval of Items of Revenue - Chapter 159 - School Road East & Route 79).

RESOLUTION # 2006-271

RESOLUTION REQUESTING APPROVAL OF ITEMS OF REVENUE  
AND APPROPRIATION (N.J.S.A. 40A:4-87)

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any County or Municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of any item of appropriation for equal amount;

Section 1

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Marlboro, in the County of Monmouth, New Jersey, hereby requests the Director of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2006 in the sum of \$45,000.00, which item is now available as a revenue from the New Jersey Department of Transportation for drainage improvements to Robertsville Road, and

Section 2

BE IT FURTHER RESOLVED that the sum of \$45,000.00 is hereby appropriated under the caption "NJ DOT Robertsville Road Drainage Grant".

RESOLUTION # 2006-272

RESOLUTION REQUESTING APPROVAL OF ITEMS OF REVENUE  
AND APPROPRIATION (N.J.S.A. 40A:4-87)

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any County or Municipality when such item shall have been made available by law

and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of any item of appropriation for equal amount;

Section 1

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Marlboro, in the County of Monmouth, New Jersey, hereby requests the Director of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2006 in the sum of \$100,000.00, which item is now available as a revenue from the New Jersey Department of Transportation for improvements to Robertsville Road, and

Section 2

BE IT FURTHER RESOLVED that the sum of \$100,000.00 is hereby appropriated under the caption "NJ DOT Robertsville Road Grant".

RESOLUTION # 2006-273

RESOLUTION REQUESTING APPROVAL OF ITEMS OF REVENUE  
AND APPROPRIATION (N.J.S.A. 40A:4-87)

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any County or Municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of any item of appropriation for equal amount;

Section 1

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Marlboro, in the County of Monmouth, New Jersey, hereby requests the Director of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2006 in the sum of \$150,000.00, which item is now available as a revenue from the New Jersey Department of Transportation for improvements to School Road East, Rt. 79 Section, and

Section 2

BE IT FURTHER RESOLVED that the sum of \$150,000.00 is hereby appropriated under the caption "NJ DOT School Road East, Rt. 79 Section Grant".

As the consent agenda, the following Resolutions were introduced by reference, offered by Councilman Pernice, seconded by Councilman Rosenthal and passed on a roll call vote of 5 - 0 in favor: Res. #2006-275 (Change Order - Electrical Renovations Municipal Complex), Res. #2006-276 (Reject and Rebid - Emergency Generator), Res. #2006-277 (Reject and Rebid - Swim Umbrellas), Res. #2006-278 (Award of State Contract - Quality Communications MDT (Mobile Data Terminals), Res. #2006-279 (Raffle License St. Benedict School (Off-premise 50/50), Res. #2006-280 (Redemption Tax Sale Certificates - Various), Res. #2006-281 (Refund of Duplicate Payment - B. 116, L. 21), Res. #2006-282 (Refund - B. 360, L. 25.23, Res. #2006-283 (Refunds to WMUA - Various) and Res. #2006-284 (Refunds for Veteran Deductions - Various).

RESOLUTION # 2006-275

A RESOLUTION AUTHORIZING AND APPROVING CHANGE ORDER #2 TO  
THE CONTRACT AWARDED TO PROCOMM SYSTEMS, INC. FOR THE  
PERFORMANCE OF ELECTRICAL MODIFICATIONS FOR THE TOWNSHIP  
OF MARLBORO MUNICIPAL COMPLEX

WHEREAS, by Resolution #2005-196, the Township of Marlboro awarded a contract to Procomm Systems, Inc., the lowest qualified bidder, for the performance of electrical modifications for the Township of Marlboro Municipal Complex for a total contract amount of \$81,250.00 (the "Contract"); and

WHEREAS, by Resolution #2006-97, dated February 16, 2006 the Township of Marlboro authorized Change Order #1 in the amount of \$2,765.00, thereby increasing the total contract amount to \$84,015.00; and

WHEREAS, Procomm Systems, Inc. was required to perform additional work outside of the Contract including the installation of additional telephone cabling and data jacks, light switches and relocation of voice and data jacks to accommodate modular furniture for a total cost of \$5,575.00; and

WHEREAS, the Director of Public Works has recommended that the Township Council authorize Change Order #2 to the Contract for \$5,575.00, thereby increasing the total contract amount to \$89,590.00; and

WHEREAS, pursuant to N.J.A.C. 5:30-11.1, *et seq.*, change orders that do not, in the aggregate, exceed 20% of the original contract amount, can be authorized by the governing body without additional public bidding.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, that the Mayor is authorized to execute Change Order #2 to the Contract between the Township of Marlboro and Procomm Systems, Inc. increasing the total contract amount to \$89,590.00; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer has executed a Certification of Funds for Change Order #2, which is attached hereto, and that sufficient funds are available for said change order from Account Number X-04-55-944-901; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Procomm Systems, Inc.
- b. Director of Public Works
- c. Township Administrator
- d. Township Chief Financial Officer
- e. Gluck Walrath, LLP.

RESOLUTION # 2006-276

BE IT RESOLVED by the Township Council of the Township of Marlboro that the advertisement for the acceptance of bids for

Emergency Generator Upgrade for DPW

be and hereby is cancelled and that no bids were received in response to said advertisement.

BE IT FURTHER RESOLVED that the Business Administrator be and she is hereby authorized and directed to readvertise for open, competitive bids for

Emergency Generator Upgrade for DPW

as required by law.

RESOLUTION # 2006-277

BE IT RESOLVED by the Township Council of the Township of Marlboro that all bids heretofore received for

Swim Umbrellas

are hereby rejected and the Business Administrator is authorized and directed to return the bid bond or other security to the appropriate bidder.

BE IT FURTHER RESOLVED that the Business Administrator be and she is hereby authorized and directed to advertise for open, competitive bids for

Swim Umbrellas

as required by law.

RESOLUTION # 2006-278

RESOLUTION AUTHORIZING THE PURCHASE OF ELEVEN (11)  
PANASONIC CF-29 TOUGHBOOKS STATE CONTRACT #A88804

WHEREAS, the Marlboro Township Police Department has recommended that the Township purchase eleven (11) Panasonic CF-29 Toughbooks from Quality Communications, 1985 Swarthmore Avenue, Lakewood, NJ 08701 under State Contract #A88804 not to exceed \$47,245.00; and

WHEREAS, pursuant to N.J.S.A. 40A:11-12, a municipality may, without advertising for bids, purchase goods under any contract for such goods entered into on behalf of the State by the Division of Purchase and Property in the Department of Treasury; and

WHEREAS, it is in the interest of the citizens of the Township of Marlboro, County of Monmouth and State of New Jersey to provide said equipment to the Township of Marlboro; and

WHEREAS, funds are available in Capital Account Numbers X-04-55-913-928, X-04-55-913-929, and Y-01-55-012-900 and have been certified to by the Chief Financial Officer of the Township of Marlboro; and

WHEREAS, the Township Council desires to approve the purchase of said equipment;

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that authorization is hereby granted to purchase eleven (11) Panasonic CF-29 Toughbooks from Quality Communications, 1985 Swarthmore Avenue, Lakewood, NJ 08701 under State Contract #A88804 not to exceed \$47,245.00; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Quality Communications, Lakewood, NJ
- b. Township Administrator
- c. Township Police Department
- d. Township Chief Financial Officer
- e. Gluck Walrath, LLP

RESOLUTION # 2006-279

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 10-06 (Off Premise 50/50) be and it is hereby granted to St. Benedict School, 165 Bethany Road, Holmdel, New Jersey 07733.

BE IT FURTHER RESOLVED that said Raffle will be held on October 16, 2006 at 7:30am-5:00pm at Bella Vista Country Club, 100 School Road East., Marlboro, N. J. 07746.

RESOLUTION # 2006-280

WHEREAS, the rightful owners of several properties have redeemed tax sale certificates totaling \$188,769.63 as per Schedule "A",

WHEREAS, the holders of the above-mentioned tax sale certificates are entitled to the amount of the sale plus interest and costs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro that the amount of \$188,769.63 be refunded to the certificate holders as per Schedule "A",

SCHEDULE "A"

<u>LIEN NO</u>	<u>BLOCK/LOT</u>	<u>LIEN HOLDER</u>	<u>AMOUNT</u>
98-2 14 Thomas Lane	105/3	Ronko Developers, Inc. P.O. Box 8 Manalapan, NJ 07726	\$51,383.84
04-3 40 Wicker Place	109/6	Fernwood Funding, LLC 92 Main Avenue Wallington, NJ 07057	12,473.29

06-11	271/1	Wachovia-Cust/SASS Muni V dtr	17,501.76
22 Riley Road		123 S. Broad St., PA 1328S	
		Tax Lien Services Group	
		Philadelphia, PA 19109	
06-16	312/91	Wachovia-Cust/SASS Muni V dtr	35,314.50
9 Michelle Court		123 S. Broad St., PA 1328S	
		Tax Lien Services Group	
		Philadelphia, PA 19109	
06-17	322/11	Fidelity Tax Corp.	22,975.37
79 School Road West		P.O. Box 5707	
		Fort Lauderdale, FL 33310	
06-19	414/10	Wachovia-Cust/SASS Muni V dtr	47,644.75
21 Old Mill Road		123 S. Broad St., PA 1328S	
		Tax Lien Services Group	
		Philadelphia, PA 19109	
06-36	295/13	Lillian Y. Zhang	1,476.12
23 Marc Drive		11 Walnut Street	
		Livingston, NJ 07039	
TOTAL:			<u>\$188,769.63</u>

RESOLUTION # 2006-281

WHEREAS, a duplicate payment of 2006 second quarter taxes has been received in the amount of \$1,258.94, for Block 116 Lot 21, located at 19 Lloyd Road, assessed to Michael H. Valsera, Jr. & M. L. Valsera,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to refund \$1,258.94 to the above-mentioned owners.

RESOLUTION # 2006-282

WHEREAS, payments for the 2006 first half taxes have been paid by the former assessed owner, K. Hovnanian Homes, in the amount of \$155.72 for Block

360 Lot 25.23, located on Rutledge Road, based upon the preliminary bill, and,

WHEREAS, the above-mentioned property is now assessed to the Township of Marlboro and is tax exempt for the year 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to refund the amount of \$155.72 to K. Hovnanian Homes.

RESOLUTION # 2006-283

WHEREAS, current sewer charges totaling \$1,013.75 have been paid by the lienholder of the Tax Sale certificates as per Schedule "A",

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro that the above-mentioned sewer charges in the amount of \$1,013.75 be refunded to the Western Monmouth Utilities Authority.

SCHEDULE "A"

<u>CERT#</u>	<u>BLOCK/LOT</u>	<u>LIENHOLDER</u>	<u>AMOUNT</u>
TSC#05-42	346/1	Berkshire Investment I, LLC	\$230.11
28 Collingwood Road			
TSC#06-20	116/31	Berkshire Investment 5, LLC	259.14
12 Nolan Road			
TSC#06-22	120/20	Berkshire Investment 5, LLC	260.70
58 Tennent Road			
TSC#06-31	184/126	Berkshire Investment 5, LLC	263.80
111 Valesi Drive			
TOTAL:			<u>\$1,013.75</u>

RESOLUTION # 2006-284

WHEREAS, Veteran deductions totaling \$500.00 have been granted as per the attached Schedule "A" for the year 2006,

WHEREAS, taxes for the year 2006 have unpaid balances as per the attached Schedule "A",

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to direct the Tax Collector to apply these deductions to the respective taxpayers as per Schedule "A".

SCHEDULE "A"

<u>BLOCK</u>	<u>LOT</u>	<u>ASSESSED OWNERS</u>	<u>AMOUNT</u>
138	7	Angelo & Amy Lynn Palagano	\$250.00
61 Roosevelt Avenue		61 Roosevelt Avenue	
		Morganville, NJ 07751	
288	29 C0278	Bertram & Florette Shaftel	250.00
278 Sunshine Court		278 Sunshine Court	
		Englishtown, NJ 07726	
TOTAL:			<u>\$500.00</u>

The following Res. #2006-285 (Appointment of Zoning Board of Adjustment Member - Alt. #1 to fill unexpired term of Michael Stern Expiring 12/31/06 - William Trochiano) was tabled to a future agenda.

The following Res. #2006-286 (Renewal Liquor License - July 1, 2006 - June 30, 2007 - Robertsville Fire Company) was introduced by reference, offered by Council Vice President Cantor, seconded by Council President Morelli and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-286

BE IT RESOLVED by the Township Council of the Township of Marlboro that the following Liquor License be and is hereby renewed for the period beginning July 1, 2006 through June 30, 2007:

Robertsville Fire Co.

1328 31 014 001

The following Res. #2006-287/Ord. #2006-23 (Amending Bond Ordinance #2002-27) was introduced by reference, offered by Council President Morelli, seconded by Council Vice President Cantor and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-287

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2006-23

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY, AMENDING ORDINANCE NO. 2002-27 OF THE TOWNSHIP FINALLY ADOPTED OCTOBER 10, 2002, PROVIDING FOR THE ACQUISITION OF REAL PROPERTY BY THE TOWNSHIP OF MARLBORO

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on August 10, 2006 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2006-23

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY, AMENDING ORDINANCE NO. 2002-27 OF THE TOWNSHIP FINALLY ADOPTED OCTOBER 10, 2002, PROVIDING FOR THE ACQUISITION OF REAL PROPERTY BY THE TOWNSHIP OF MARLBORO

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section A. Section 3(a) of Bond Ordinance No. 2002-27 of the Township of Marlboro, in the County of Monmouth, New Jersey, finally adopted October 10, 2002 (the "Prior Ordinance"), is hereby amended in its entirety to read as follows:

(a) "The improvement authorized and the purpose for which obligations are to be issued is the acquisition of real property, said parcel being designated as a portion of Block 159, Lot 1 and Block 160, Lot 8 in the Township, as well as shown on and in accordance with the plans and specifications therefor on file in the Office of

the Clerk and the preliminary investigation of the remediation thereof."

Section B. Section 6(b) of the Prior Ordinance is hereby amended such that the period of usefulness of the improvements, within the limitation of the Local Bond Law and according to the reasonable life thereof computed from the date of the Bonds authorized by this bond ordinance, is amended from 40 years to 39.93 years.

Section C. The capital budget or temporary capital budget (as applicable) of the Township is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. In the event of any such inconsistency and amendment, the resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget or amended temporary capital budget (as applicable) and capital program as approved by the Director of the Division of Local Government Services is on file with the Township Clerk and is available there for public inspection.

Section D. After passage upon first reading of this bond ordinance, the Township Clerk is hereby directed to publish the full text of the bond ordinance, together with the notice set forth below entitled: "NOTICE OF PENDING BOND ORDINANCE" (with appropriate completions, insertions and corrections), at least once in a newspaper qualified under N.J.S.A. 40A:2-19, at least seven days prior to the date set for public hearing and further consideration for final passage (which date shall be at least ten days after introduction and first reading). The Township Clerk is further directed to comply with all provisions of N.J.S.A. 40A:2-17(b) regarding postings, publications, and the provision of copies of this bond ordinance.

Section E. After final adoption of this bond ordinance by the Mayor and Council, the Township Clerk is hereby directed to publish the full text of this bond ordinance, as finally adopted, together with the notice set forth below entitled: "NOTICE OF ADOPTION OF BOND ORDINANCE" (with appropriate completions, insertions and corrections), at least once in a newspaper qualified under N.J.S.A. 40A:2-19.

Section F. This ordinance amends Bond Ordinance No. 2002-27 of the Township finally adopted October 10, 2002. Any inconsistencies shall be resolved by reference to this amending ordinance. To the extent that any previous ordinance or resolution is inconsistent herewith or contradictory hereto, said ordinance or resolution is

hereby repealed or amended to the extent necessary to make it consistent herewith.

Section G. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by Section E hereof and the Local Bond Law.

At 11:20PM, Council Vice President Cantor moved that the meeting be adjourned. This was seconded by Councilwoman Tragni, and as there was no objection, the Clerk was asked to cast one ballot.

MINUTES APPROVED: August 10, 2006

OFFERED BY: Pernice

AYES: 4

SECONDED BY: Rosenthal

NAYS: 0

ABSENT: Cantor

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ALIDA DE GAETA  
MUNICIPAL CLERK

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PATRICIA MORELLI  
COUNCIL PRESIDENT